FEDERAL REGISTER

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Washington, Saturday, October 8, 1955

TITLE 6—AGRICULTURAL CREDIT

Chapter IV—Commodity Stabilization Service and Commodity Credit Corporation, Department of Agriculture

Subchapter B—Loans, Purchases, and Other Operations

[1955 CCC Peanut Bulletin 721 (Peanuts 55)–1, Amdt. 1]

PART 446—PEANUTS

SUBPART—1955 CROP PEANUT PRICE SUPPORT PROGRAM

The regulations issued by Commodity Credit Corporation (hereinafter referred to as "CCC") with respect to the 1955 crop Peanut Price Support Program (20 F. R. 5615) are amended by the addition of the following rules and regulations governing the purchase of No. 2 shelled peanuts which meet the eligibility requirements in § 446.721 (hereinafter referred to as "No. 2 peanuts") Shellers located in an area specified below who are interested in selling No. 2 peanuts to CCC in accordance with the rules and regulations outlined herein should so notify the Association listed for such area (hereinafter called either "cooperative" or "association") within 30 days after the date this amendment is published in the FEDERAL REGISTER. Purchases will be made from only those shellers who have indicated such intention within the time prescribed.

Southeastern area: GFA Peanut Association.

Southwestern area: Southwestern Peanut Growers' Association.

Virginia-Carolina area: Peanut Growers Cooperative Marketing Association.

Sec.

AUTHORITY: §§ 446.720 to 446.732 issued under sec. 4, 62 Stat. 1070, as amended; 15 U. S. C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 101, 401, 63 Stat. 1051, 1054; sec. 201, 63 Stat. 859; 15 U. S. C. 714c, 7 U. S. C. 1441, 1421.

§ 446.720 *Purchase of No. 2 shelled peanuts.* Subject to the terms and conditions in §§ 446.720 to 446.732, CCC will purchase from shellers No. 2 peanuts offered by the shellers to the association designated by CCC to accept such peanuts in the area on behalf of CCC.

§ 446.721 *Eligibility requirements for No. 2 shelled peanuts.* No. 2 peanuts of any type offered to CCC must—

(a) Meet the U. S. Standards for U. S. No. 2 shelled peanuts of such type: *Provided, however* That (1) such peanuts shall contain 7 percent or less damaged kernels, 9 percent or less moisture, and 2 percent or less foreign material, (2) Virginia type peanuts may contain 3 percent or less small shriveled kernels, and (3) whole kernels of Spanish type peanuts which pass through a 16/64 inch screen shall not be put back with peanuts which ride the screen (i. e., whole kernels passing through the screen are to be considered as small shriveled kernels)

(b) Be free and clear of all liens and encumbrances;

(c) Not exceed the quantity of No. 2 peanuts which CCC determines that the sheller could reasonably produce from 1955 crop farmers stock peanuts eligible for price support which the sheller purchased from producers and for which the type and grade were determined by inspectors authorized or licensed by the Secretary of Agriculture.

§ 446.722 *Sheller's agreement to service producers and the association.* Each sheller who notifies the association of his intention to offer No. 2 peanuts to CCC shall, upon, request (a) inform a producer of the amount he could obtain for his peanuts under a price support loan to the cooperative and also inform the producer where he may deliver his peanuts to the cooperative, and (b) make

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CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

CODIFICATION GUIDE—Con.

available to the cooperative warehouse space for storage of loan peanuts under contract CCC peanut Form 28 (1955) except that if the sheller demonstrates to the cooperative that he needs the space for his customary business operations, he will not be required to make such space available.

§ 446.723 *Period in which offers will be accepted.* (a) A sheller may offer, in writing, No. 2 peanuts to CCC from October 8, 1955 through May 31, 1956, unless a later date is approved in writing by CCC: *Provided, however,* That CCC may, at any time prior to May 31, 1956, or such later date as is approved by CCC, terminate its obligation to accept any offers of No. 2 peanuts under §§ 446.720 to 446.732. The date the offer is received by the association shall be deemed to be the date of the offer. The offer, the provisions of §§ 446.720 to 446.732, and the written acceptance by the association shall constitute the contract between the sheller and CCC.

(b) At any time prior to the end of the period during which offers will be accepted, the association may send the sheller a written request for information with respect to the quantity of No. 2 peanuts in the sheller's inventory which are eligible for sale to CCC, and the sheller shall furnish such information within 5 days after the date of the request. The association may, by written notice dated not more than 10 days after receipt of such information from the sheller, request the sheller to offer a specified quantity of No. 2 peanuts, which quantity may be all or any part, but not less than 25,000 pounds, of his inventory of No. 2 peanuts which are eligible for sale to CCC. If he does not offer such quantity of No. 2 peanuts within 5 days after the date of the request for an offer, CCC shall not be obligated to buy any No. 2 peanuts from such sheller for a period of 60 days after the date of such request.

(c) If the sheller fails to furnish, within the 5-day period specified above, information with respect to the quantity of peanuts eligible for sale to CCC, CCC shall not be obligated thereafter to purchase any peanuts from such sheller.

§ 446.724 *Minimum quantity and terms of offer* (a) The minimum quantity of No. 2 peanuts which may be offered at any one time is 25,000 pounds. One offer shall include all No. 2 peanuts offered at one time for delivery at one location.

(b) Each offer shall be made in the manner prescribed by CCC and shall contain the sheller's certification that (1) the offer is made pursuant to the terms and conditions of §§ 446.720 to 446.732, (2) the peanuts meet the eligibility requirements in § 446.721, (3) the sheller has fulfilled all the obligations of §§ 446.720 to 446.732, which are required to be fulfilled prior to the submission of an offer, and (4) the sheller will carry out all of the obligations of §§ 446.720 to 446.732 which remain to be performed after the offer is made.

§ 446.725 *Inspecting, grading, scaling, and rejecting No. 2 peanuts offered.* (a) The type and grade of the No. 2 peanuts purchased by CCC pursuant to each offer shall be determined by inspectors, authorized or licensed by the Secretary of Agriculture, and evidenced by inspection certificates issued by such inspectors. The sheller shall pay the cost of inspection and grading.

(b) The inspection data shall be used to determine (1) that the No. 2 peanuts meet the eligibility requirements with respect to grade and quantity specified in § 446.721, (2) the net weight, and (3) the price which CCC will pay for No. 2 peanuts. Any determination of grade shall be subject to appeal in accordance with the inspection agency procedure.

(c) Each bag of No. 2 peanuts purchased by CCC shall be identified with a seal furnished by CCC and affixed in accordance with instructions issued by Federal-State Inspection Service. CCC shall have the right to re-inspect the No. 2 peanuts at its own expense within 5 days after receipt at destination.

(d) CCC may reject all or any part of the quantity offered in one offer if any bag of peanuts included in such offer at the time of the original inspection or re-inspection does not meet the eligibility requirements in § 446.721.

§ 446.726 *Net weight.* The net weight of a lot of No. 2 peanuts shall be that weight obtained by multiplying the gross weight, including bags, by a percentage equal to 100 percent minus the percentage of foreign material shown on the inspection certificate issued pursuant to § 446.725. The gross weight shall be determined by actual weight, as prescribed by CCC.

§ 446.727 *Delivery and passage of title.* (a) (1) The sheller shall deliver No. 2 peanuts in accordance with instructions issued by the association. Such delivery instructions, except as provided in paragraph (b) of this section, shall be issued within 25 days after the date of the association's written acceptance of the offer.

(2) The sheller shall deliver all No. 2 peanuts in bags of uniform size, which are packed in accordance with good commercial practices. Such bags shall be made of new burlap of not less than 10-ounce weight material. Plain unprinted bags stenciled in accordance with instructions issued by CCC may be required in some instances.

(3) If the sheller fails to exercise rodent and insect control to the extent that the No. 2 peanuts offered to CCC are subject to seizure by the Food and Drug Administration, Department of Health, Education and Welfare, such peanuts shall not be eligible for delivery to CCC, and any amount paid to the sheller therefor shall be refunded to CCC.

(4) If the sheller fails to deliver, as prescribed in the delivery instructions, a quantity of No. 2 peanuts equal to at least 95 percent of the quantity offered by him and accepted by the association, or if he delivers a quantity of No. 2 peanuts in excess of the quantity eligible for delivery to CCC pursuant to § 446.721, he shall pay to CCC, as liquidated damages and not as a penalty, an amount equal to 2 cents per pound (i) for the quantity by which the quantity delivered is less than 95 percent of that offered by the sheller and accepted by CCC; or (ii) for the quantity delivered which is in excess of the quantity eligible for delivery to CCC. Because of the difficulty in ascertaining the exact damages which CCC would suffer in either situation, CCC and the sheller agree that such liquidated damages constitute a reasonable estimate of the probable actual damages.

(b) Title to the No. 2 peanuts shall pass to CCC upon delivery from the sheller's plant, f. o. b. railroad cars or trucks at CCC's option; except that in the event the association does not issue

delivery instructions within 25 days after the date of its written acceptance of the offer, title shall pass to CCC on the 30th day after the date of such written acceptance if the sheller, on or before such 30th day, places the No. 2 peanuts in identity preserved storage in a facility approved by CCC and delivers to CCC a storage certificate, in a form approved by CCC accompanied by an inspection certificate issued by an authorized inspector showing that the peanuts meet the quality requirements for eligibility. The gross weight of the peanuts for which the storage certificate is issued shall be determined after the expiration of the 25-day period within which the association was to have issued shipping instructions, by a weighmaster and on scales approved by CCC. The sheller shall be responsible for deterioration after passage of title to CCC which is due to his fault, negligence, or failure to exercise such care in storing or handling such peanuts as a reasonably prudent owner thereof would exercise. If the sheller fails to issue the storage certificate, title shall not pass until the peanuts are delivered in accordance with instructions issued by the association, and CCC shall not pay any storage or handling charges with respect to such peanuts.

§ 446.728 *Payment.* (a) The price per pound net weight of No. 2 peanuts purchased by CCC shall be as follows:

No. 2 peanuts containing damaged kernels of—	Runner, Southeast Spanish and Southwest Spanish types	Virginia type
	Cents	*Cents*
2 percent	14.5	14.75
3 percent	14.37	14.62
4 percent	14.25	14.5
5 percent	13.5	13.75
6 percent	12.75	13.0
7 percent	11.75	12.0

(b) With respect to No. 2 peanuts stored by the sheller and for which title has passed to CCC pursuant to § 446.727 (b), payment for warehouse charges shall be the sum of:

(1) $.50 per net weight ton for handling-in charges,

(2) $.50 per net weight ton for handling-out charges (delivery f. o. b. railroad cars or trucks at CCC's option) and

(3) $1.00 per net weight ton per month, fractions of ton and month in proportion, for storage charges. The storage month shall begin on the date title passes to CCC and shall run from that date to, but not including, the corresponding day of the next calendar month. The storage period shall end on the day prior to the date the peanuts are delivered from storage.

(c) (1) Payment for the No. 2 peanuts and for any warehouse charges shall be made, at the time specified below, upon presentation to the association of a proper invoice and supporting documents prescribed by CCC.

(2) Payment for the No. 2 peanuts for which title passed to CCC upon delivery shall be made, after delivery, on the net weight determined from the gross weight obtained at the time the No. 2 peanuts are loaded out of the sheller's plant.

(3) Payment for the No. 2 peanuts for which title passed to CCC while the peanuts remained in the sheller's storage facilities, as provided in § 446.727 (b), shall be made after title has passed to CCC; but payment of the warehouse charges specified in paragraph (b) of this section for such No. 2 peanuts shall be made after the peanuts are delivered. The net weight on which the amount of payment for both the No. 2 peanuts and the warehouse charges is determined, shall be the net weight of the peanuts for which the storage certificate was issued.

§ 446.729 *Records and reports.* The records of the sheller shall at all times show (a) with respect to farmers stock peanuts purchased from producers and for which the type and grade were determined by inspectors authorized or licensed by the Secretary of Agriculture, the date and place received, the names and addresses of the producers, the types, grades, and the pounds of each such grade received from each producer, (b) the types, grades, and quantity of farmers stock peanuts purchased without inspection by inspectors authorized or licensed by the Secretary of Agriculture, and (c) the types, grades, and quantity of No. 2 peanuts produced. The sheller shall keep such accounts and other records and shall furnish such information and reports relating to the No. 2 peanuts and the farmers stock peanuts from which No. 2 peanuts were produced, as may be prescribed or requested by CCC. The association or CCC may examine and audit the accounts and records of the sheller and may require the sheller to make all his records available at his main office at any time an audit is made. All books, accounts, and records shall be retained for a period of two years after the last No. 2 peanuts are delivered to CCC.

NOTE: The reporting and record keeping requirements contained herein have been approved by, and subsequent reporting requirements will be subject to approval of the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

§ 446.730 *Assignment.* No contract, claim, or payment pursuant to §§446.720 to 446.732 shall be assigned in whole or in part by the sheller without the prior written approval of CCC, and any such assignment shall be in such form as may be approved or prescribed by CCC.

§ 446.731 *Officials not to benefit.* No Member of or Delegate to the Congress of the United States shall be admitted to any share or part of any agreement or contract between the sheller and CCC pursuant to §§ 446.720 to 446.732, or to any benefit to arise therefrom, but this provision shall not be construed to extend to benefit arising from such agreement or contract if accruing to a corporation.

§ 446.732 *Contingent fees.* The sheller shall not employ any person to solicit or secure any contract pursuant to §§ 446.720 to 446.732 upon any stipulation for a commission, percentage, brokerage, or contingent fee. Breach of this provision shall give CCC the right to annul the contract, or in its discretion, to deduct from any amount due the sheller the amount of such commission, percentage, brokerage, or contingent fee.

Issued this 5th day of October 1955.

[SEAL] EARL M. HUGHES,
Executive Vice President,
Commodity Credit Corporation.

[F. R. Doc. 55-8178; Filed, Oct. 7, 1955; 8:50 a. m.]

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

DEPARTMENT OF LABOR

Effective upon publication in the FEDERAL REGISTER, paragraphs (i) (2) and (j) (2) of § 6.313 are revoked, and a new subparagraph (2) is added to paragraph (i) as set out below.

§ 6.313 *Department of Labor* * * *

(i) *Wage and Hour and Public Contracts Divisions* * * *

(2) One Confidential Assistant to the Administrator.

(R. S. 1753, sec. 2, 22 Stat. 403; 5 U. S. C. 631, 633; E. O. 10440, March 31, 1953, 18 F. R. 1823, 3 CFR 1953 Supp.)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] WM. C. HULL,
Executive Assistant.

[F. R. Doc. 55-8157; Filed, Oct. 7, 1955; 8:47 a. m.]

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

CIVIL AERONAUTICS BOARD

Effective upon publication in the FEDERAL REGISTER, paragraph (j) is added to § 6.337 as set out below.

§ 6.337 *Civil Aeronautics Board* * * *

(j) One Private Secretary to the Congressional Liaison Officer.

(R. S. 1753, sec. 2, 22 Stat. 403; 5 U. S. C. 631, 633; E. O. 10440, March 31, 1953, 18 F. R. 1823, 3 CFR 1953 Supp.)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] WM. C. HULL,
Executive Assistant.

[F. R. Doc. 55-8164; Filed, Oct. 7, 1955; 8:48 a. m.]

TITLE 7—AGRICULTURE

Chapter I—Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

PART 52—PROCESSED FRUITS, VEGETABLES, AND OTHER PRODUCTS (INSPECTION, CERTIFICATION, AND STANDARDS)

SUBPART—UNITED STATES STANDARDS FOR GRADES OF DRIED APPLES; CORRECTIONS

In F R. Doc. 55-7681, beginning on page 7095 of the issue for Thursday,

September 22, 1955, the following corrections have been made:

1. In § 52.2481, last sentence, change third complete word to "apples" instead of "applies"

2. In § 52.2482 (d) change the second word to "consist" instead of the word "consists"

3. In § 52.2486 (c) change the second word to "are" instead of the word "is"

4. In § 52.2490, Work sheet for dried apples, in the first column and following the phrase "Seeds (maximum) * * *" change the phrase to "4 per 16 ounces" instead of "3 per 16 ounces"

Dated: October 5, 1955.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator
Marketing Services.

[F. R. Doc. 55-8177; Filed, Oct. 7, 1955; 8:50 a. m.]

Chapter VII—Commodity Stabilization Service (Farm Marketing Quotas and Acreage Allotments), Department of Agriculture

PART 729—PEANUTS

NATIONAL MARKETING QUOTA, NATIONAL ACREAGE ALLOTMENT, AND APPORTIONMENT TO STATES OF NATIONAL ACREAGE ALLOTMENTS FOR 1956 CROP

§ 729.701 *Basis and purpose.* Section 358 (a) of the Agricultural Adjustment Act of 1938, as amended, provides that between July 1 and December 1 of each calendar year the Secretary of Agriculture shall proclaim a national marketing quota for peanuts for the crop produced in the next succeeding calendar year in terms of the total quantity of peanuts which will make available for marketing a supply of peanuts from the crop with respect to which the quota is proclaimed equal to the average quantity of peanuts harvested for nuts during the immediately preceding five years, adjusted for current trends and prospective demand conditions. Section 358 (a) further provides that the national marketing quota established for the crop produced in the calendar year 1941 shall be a quantity of peanuts sufficient to provide a national acreage allotment of not less than 1,610,000 acres, and that the national marketing quota established for any subsequent year shall be a quantity of peanuts sufficient to provide a national acreage allotment of not less than that established for the crop produced in the calendar year 1941.

Except for the preceding limitation, the national marketing quota would be 666,000 tons and the national acreage allotment would be 1,454,139 acres. In order to obtain the minimum national acreage allotment of 1,610,000 acres, the national marketing quota must be set at 719,670 tons. Section 358 (a) also provides that the national marketing quota shall be converted to a national acreage allotment by dividing such quota by the normal yield per acre for the United States.

Section 358 (c) of the said Act provides that the national acreage allotment, less the acreage to be allotted to new farms under section 358 (f) shall be apportioned among the States on the basis of their share of the national acreage allotment for the most recent year in which such apportionment was made.

Section 729.702 of this proclamation establishes the national marketing quota, the normal yield per acre, and the national acreage allotment for the 1956 crop of peanuts. Section 729.703 apportions the 1956 national acreage allotment among the several peanut-producing States. The determinations in these sections are based on the latest available statistics of the Federal Government.

Public notice of the proposed proclamation and determinations to be made with respect to the 1956 national marketing quota, the national acreage allotment, and apportionment of such allotment among the States was given (20 F. R. 4142) in accordance with the Administrative Procedure Act. The proclamation is made after due consideration of recommendations submitted in response to such notice.

§ 729.702 *Proclamation and determination with respect to national marketing quota, normal yield per acre, and national acreage allotment for peanuts for the crop produced in the calendar year 1956*—(a) *National marketing quota.* The amount of the national marketing quota for peanuts for the crop produced in the calendar year 1956 is 719,670 tons.

(b) *Normal yield per acre.* The normal yield per acre of peanuts for the United States is 894 pounds.

(c) *National acreage allotment.* The national acreage allotment for the crop produced in the calendar year 1956 is 1,610,000 acres.

§ 729.703 *Apportionment of the national peanut acreage allotment for the crop produced in the calendar year 1956.* The national peanut acreage allotment proclaimed in § 729.702 is hereby apportioned as follows:

State:	*1955 State acreage allotment*
Alabama	217,965
Arizona	717
Arkansas	4,220
California	240
Florida	54,777
Georgia	523,611
Louisiana	1,963
Mississippi	7,657
Missouri	240
New Mexico	4,800
North Carolina	103,813
Oklahoma	137,323
South Carolina	13,743
Tennessee	3,564
Texas	355,063
Virginia	105,542
Total apportioned to States	1,601,950
Reserve for new farms	8,050
Total, United States	1,610,000

(Sec. 375, 52 Stat. 66, as amended; 7 U. S. C. 1375. Interpret or apply secs. 301, 358, 359, 361–368, 372, 373, 374, 376, 388, 52 Stat. 38, 62, 63, 64, 65, 66, 68, as amended; 55 Stat. 88, as amended, 66 Stat. 27; 7 U. S. C. 1301, 1358, 1359, 1361–1368, 1372, 1373, 1374, 1376, 1383)

Issued at Washington, D. C., this 5th day of October 1955. Witness my hand and the seal of the Department of Agriculture.

[SEAL] TRUE D. MORSE,
Acting Secretary of Agriculture.

[F. R. Doc. 55-8179; Filed, Oct. 7, 1955; 8:50 a. m.]

Chapter VIII—Commodity Stabilization Service (Sugar), Department of Agriculture

Subchapter D—Sugar Requirements and Quotas

[Sugar Reg. 811, Amdt. 3]

PART 811—CONTINENTAL SUGAR REQUIREMENTS AND QUOTAS

MISCELLANEOUS AMENDMENTS

Basis and purpose. The purpose of Sugar Regulation 811 is to determine, pursuant to section 201 of the Sugar Act of 1948, as amended (hereinafter called the "act"), the amount of sugar needed to meet the requirements of consumers in the continental United States for the calendar year 1955 and to establish pursuant to section 202 of the act, sugar quotas for the supplying areas in terms of short tons of sugar, raw value (formerly Part 813), equal to the quantity determined by the Secretary of Agriculture to be needed in 1955.

The act requires that the Secretary shall revise the determination of sugar requirements at such times during the calendar year as may be necessary. It now appears that an increase in the estimate of requirements for the calendar year 1955 is necessary. The purpose of this amendment is to make such determination conform to the requirements indicated on the basis of the factors specified in section 201 of the act and give effect to the revised determination.

After providing for quotas in specific amounts for domestic sugar producing areas and the Republic of the Philippines, section 202 of the act provides that the difference between the sum of such quotas and total requirements shall be prorated to foreign countries other than the Republic of the Philippines on the basis of stated percentages. Thus, the statute states specifically how quotas are to be revised when there is a change in sugar requirements. Furthermore, in order to make available the additional sugar authorized by this amendment to meet current demand at stable prices and thereby protect the interests of consumers, it is essential that this amendment be made effective immediately. Therefore, it is hereby determined and found that compliance with the notice, procedure and effective date requirements of the Administrative Procedure Act (60 Stat. 237; 5 U. S. C. 1001) is impracticable, unnecessary and contrary to the public interest. The amendments made herein shall become effective upon publication in the FEDERAL REGISTER.

By virtue of the authority vested in the Secretary of Agriculture by the Sugar Act of 1948, as amended (61 Stat. 922, 65 Stat. 318, 7 U. S. C. 1100) and the Administrative Procedure Act (60 Stat. 237) §§ 811.70, 811.72, 811.74 (b), (c) (d) and 811.75 (b) (1) of Sugar Regulation 811,

as amended (19 F R. 9209, 20 F R. 5386; 20 F R. 7323) are amended to read as hereinafter set forth.

1. Section 811.70 is amended to read:

§ 811.70 *Sugar requirements, 1955.* The amount of sugar needed to meet the requirements of consumers in the continental United States for the calendar year 1954 is hereby determined to be 8,400,000 short tons, raw value.

2. Section 811.72 is amended to read:

§ 811.72 *Basic quotas for other areas.* There are hereby established, pursuant to subsections (b) and (c) of section 202 of the act, for foreign countries for the calendar year 1955 the following quotas:

Area:	*Quotas in terms of short tons, raw value*
Republic of the Philippines	977,000
Cuba	2,859,840
Other foreign countries	119,160

3. Paragraphs (b), (c) and (d) of § 811.74 are amended to read:

§ 811.74 *Proration of quota for foreign countries other than Cuba and the Republic of the Philippines.* * * *

(b) *Basic prorations.* The 1955 quota for foreign countries other than Cuba and the Republic of the Philippines is hereby prorated pursuant to subsection (c) of section 202 of the act, among such countries as follows:

Country	*Proration in short tons, raw value*
Dominican Republic	29,591
El Salvador	4,434
Haiti	2,863
Mexico	12,269
Nicaragua	8,387
Peru	55,658
Unspecified countries	5,958
Total	119,160

(c) *Deficit in prorations of foreign countries other than Cuba and the Republic of the Philippines.* It is hereby determined pursuant to section 204 (b) of the act, that of the prorations of the quota for foreign countries other than Cuba and the Republic of the Philippines, 4,434 short tons, raw value, prorated to El Salvador will not be filled by that country.

(d) *Allotment of unfilled prorations.* The quantity of sugar determined in paragraph (c) of this section is hereby prorated pursuant to subsection (b) of section 204 of the act, as follows:

Country	*Additional prorations in short tons, raw value*
Dominican Republic	2,934
Haiti	284
Mexico	1,216
Total	4,434

§ 811.75 *Direct-consumption portion of quotas or prorations.* * * *

(b) *Other areas.* (1) Pursuant to subsections (d), (e) and (h) of section 207 of the act, the quotas established in § 811.72 for the following listed areas may be filled by direct-consumption sugar not in excess of the following amount for each such area.

Area:	*Direct-consumption sugar, short tons, raw value*
Republic of the Philippines	59,920
Cuba	375,000
Other foreign countries	40,514

BASIS AND CONSIDERATIONS

Sugar requirements. Although sugar consumption for 1955 was estimated at 8,500,000 short tons, raw value, on December 21, 1954, total sugar quotas were established as 8,200,000 tons. The difference of 300,000 tons represented an allowance for constructive deliveries in 1954 for consumption in 1955, for possible error in the estimate and for stabilizing prices. In recognition of accelerated distribution which occurred about midyear, total quotas were increased by 100,000 tons to 8,300,000 tons on July 27, 1955. Since that time distribution has continued to run well ahead of the rate for the preceding year and total distribution is now approximately 250,000 tons greater than for the comparable period of 1954.

It is probable that sugar users and distributors in the North Central States have added substantially to their inventories in anticipation of the withdrawal of concessions and price increases announced in most parts of that region during the summer months. Elsewhere, however, there is no evidence that users and distributors are carrying much more than minimum stocks.

Beet sugar processors to date have distributed a disproportionately large share of their quota for the year, thus reducing the quantity of sugar which they may market during the balance of the year. This condition which became apparent some months ago contributed to the strengthening of the relatively weak market situation which had existed in the North Central States for almost two years. Also, this condition will result in a disproportionately large distribution by refiners of cane sugar during the balance of the year.

In view of the continued strong demand for sugar and the relatively larger proportion of consumer needs during the balance of the year which necessarily must be supplied by refiners of cane sugar, it is evident that additional sugar is needed within the quotas. Accordingly, the total of the sugar quotas (sugar requirements) is increased by 100,000 tons to 8,400,000 short tons, raw value.

Quotas. To give affect to the increase in sugar requirements the quotas for Cuba and Foreign Countries other than Cuba and the Republic of the Philippines have been increased by the amendments made herein to §§ 811.72, 811.74 (b) and 811.75 (b) (1) In § 811.74 (c) and (d) the proration to El Salvador of the quota for foreign countries other than Cuba and the Republic of the Philippines was prorated to the Dominican Republic, Haiti and Mexico. The proration to El Salvador prior to the increase in sugar requirements made effective by this amendment was prorated to the above named countries by Sugar Regulation 811, Amendment 2 (20 F R. 7323) All other countries receiving specific prorations have either filled their quota by September 1 or indicated their intention and ability to do so by December 31. Of the countries receiving specific prorations, the Dominican Republic, Haiti and Mexico participate in the International Sugar Agreement and have additional sugar available for importation before the end of the year. Therefore, the quantity of sugar determined in § 811.74 (c) has been prorated to the Dominican Republic, Haiti and Mexico in proportion to the prorations established in § 811.74 (b)

(Sec. 403, 61 Stat. 932, as amended; 7 U. S. C. 1153. Interpret or apply secs. 202, 204, 207, 210, 61 Stat. 924, 925, 927, 928 as amended; 7 U. S. C. 1112, 1114, 1117, 1120)

Done at Washington, D. C., this 5th day of October 1955. Witness my hand and the seal of the Department of Agriculture.

[SEAL] TRUE D. MORSE,
Acting Secretary of Agriculture.

[F. R. Doc. 55-8180; Filed, Oct. 7, 1955; 8:50 a. m.]

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

[Valencia Orange Reg. 57]

PART 922—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

LIMITATION OF HANDLING

§ 922.357 *Valencia Orange Regulation 57*—(a) *Findings.* (1) Pursuant to Order No. 22 (7 CFR Part 922), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective March 31, 1954, under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The Valencia Orange Administrative Committee held an open meeting on October 6, 1955, after giving due notice thereof, to consider supply and market conditions for

Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein was promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject thereto which cannot be completed on or before the effective date hereof.

(b) *Order.* (1) The quantity of Valencia oranges grown in Arizona and designated part of California which may be handled during the period beginning at 12:01 a. m., P. s. t., October 9, 1955, and ending at 12:01 a. m., P s. t., October 16, 1955, is hereby fixed as follows:

(i) District 1. Unlimited movement;

(ii) District 2: 369,600 boxes;

(iii) District 3: Unlimited movement.

(2) Valencia oranges handled pursuant to the provisions of this section shall be subject to any size restrictions applicable thereto which have heretofore been issued on the handling of such oranges and which are effective during the period specified herein.

(3) As used in this section, "handled," "handler," "boxes," "District 1," "District 2," and "District 3," shall have the same meaning as when used in said order.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: October 7, 1955.

[SEAL] S. R. SMITH,
Director Fruit and Vegetable Division, Agricultural Marketing Service.

[F. R. Doc. 55-8256; Filed, Oct. 7, 1955; 11:24 a. m.]

[Grapefruit Reg. 228]

PART 933—ORANGES, GRAPEFRUIT, AND TANGERINES GROWN IN FLORIDA

LIMITATION OF SHIPMENTS

§ 933.745 *Grapefruit Regulation 228*—(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 33, as amended (7 CFR Part 933), regulating the handling of oranges, grapefruit, and tangerines grown in the State of Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than October 10, 1955. Shipments of grapefruit, grown in the State of Florida, are presently subject to regulation by grades and sizes, pursuant to the amended marketing agreement and order, and will so continue until October 10, 1955; the recommendation and supporting information for continued regulation subsequent to October 9, 1955, was promptly submitted to the Department after an open meeting of the Growers Administrative Committee on October 4; such meeting was held to consider recommendations for regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this section, including the effective time hereof, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such grapefruit; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period hereinafter set forth so as to provide for the continued regulation of the handling of grapefruit; and compliance with this section will not require any special preparation on the part of persons subject thereto which cannot be completed by the effective time hereof.

(b) *Order.* (1) During the period beginning at 12:01 a. m., e. s. t., October 10, 1955, and ending at 12:01 a. m., e. s. t., October 24, 1955, no handler shall ship:

(i) Any grapefruit, grown in the State of Florida, which are not mature and do not grade at least U. S. No. 2;

(ii) Any white seeded grapefruit, grown in the State of Florida, which are of a size smaller than a size that will pack 70 grapefruit, packed in accordance with the requirements of a standard pack, in a standard nailed box.

(iii) Any pink seeded grapefruit, grown in the State of Florida, which are of a size smaller than a size that will pack 80 grapefruit, packed in accordance with the requirements of a standard pack, in a standard nailed box; or

(iv) Any seedless grapefruit, grown in the State of Florida, which are of a size smaller than a size that will pack 96 grapefruit, packed in accordance with the requirements of a standard pack, in a standard nailed box.

(2) As used in this section, "handler," "ship," and "Growers Administrative Committee" shall have the same meaning as when used in said amended marketing agreement and order; the terms "U. S. No. 2," "standard pack," and "standard nailed box" shall have the same meaning as when used in the revised United States Standards for Florida Grapefruit (§§ 51.750 to 51.780 of this title) and the term "mature" shall have the same meaning as set forth in § 601.16 Florida Statutes, Chapters 26492 and 28030, known as the Florida Citrus Code of 1949, as supplemented by § 601.17 (Chapters 25149 and 28030) and also by § 601.18, as amended on June 2, 1955 (Chapter 29760)

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: October 5, 1955.

[SEAL] S. R. SMITH,
Director Fruit and Vegetable Division, Agricultural Marketing Service.

[F. R. Doc. 55-8176; Filed, Oct. 7, 1955; 8:50 a. m.]

[Orange Reg. 232]

PART 933—ORANGES, GRAPEFRUIT, AND TANGERINES GROWN IN FLORIDA

LIMITATION OF SHIPMENTS

§ 933.746 *Orange Regulation 232*—(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 33, as amended (7 CFR Part 933), regulating the handling of oranges, grapefruit, and tangerines grown in the State of Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of all Florida oranges, except Temple oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than October 10, 1955. Shipments of all oranges, except Temple oranges, grown in the State of Florida, are presently subject to regulation by grades and sizes, pursuant to the amended marketing agreement

and order, and will so continue until October 10, 1955; the recommendation and supporting information for continued regulation subsequent to October 9, 1955, was promptly submitted to the Department after an open meeting of the Growers Administrative Committee on October 4; such meeting was held to consider recommendations for regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this section, including the effective time hereof, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period hereinafter set forth so as to provide for the continued regulation of the handling of all oranges, except Temple oranges, and compliance with this section will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

(b) *Order* (1) During the period beginning at 12:01 a. m., e. s. t., October 10, 1955, and ending at 12:01 a. m., e. s. t., October 24, 1955, no handler shall ship:

(i) Any oranges, except Temple oranges, grown in the State of Florida, which do not grade at least U. S. No. 1 Russet; or

(ii) Any oranges, except Temple oranges, grown in the State of Florida, which are of a size smaller than a size that will pack 252 oranges, packed in accordance with the requirements of a standard pack, in a standard 1⅗ bushel mailed box.

(2) As used in this section, the terms "handler," "ship," and "Growers Administrative Committee" shall each have the same meaning as when used in said amended marketing agreement and order; the term "standard 1⅗ bushel nailed box" is synonymous with "standard nailed box" as used in the revised United States Standards for Florida Oranges (§§ 51.1140–51.1186, 18 F. R. 7122), and the terms "U. S. No. 1 Russet," "standard pack," and "standard 1⅗ bushel nailed box" shall have the same meaning as when used in said revised United States Standards for Florida Oranges or in the United States Standards for Florida Oranges and Tangelos (§§ 51.1140 to 51.1186 of this title, 20 F R. 7205), whichever is in effect.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: October 5, 1955.

[SEAL] S. R. SMITH,
Director Fruit and Vegetable Division, Agricultural Marketing Service.

[F. R. Doc. 55-8175; Filed, Oct. 7, 1955; 8:50 a. m.]

[Lemon Reg. 610]

PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

LIMITATIONS OF SHIPMENTS

§ 953.717 *Lemon Regulation 610*—(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR Part 953; 19 F R. 7175; 20 F R. 2913) regulating the handling of lemons grown in the State of California or in the State of Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of the quantity of such lemons which may be handled, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. Shipments of lemons, grown in the State of California or in the State of Arizona, are currently subject to regulation pursuant to said amended marketing agreement and order; the recommendation and supporting information for regulation during the period specified herein was promptly submitted to the Department after an open meeting of the Lemon Administrative Committee on October 5, 1955, such meeting was held, after giving due notice thereof to consider recommendations for regulation, and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period hereinafter specified; and compliance with this section will not require any special preparation on the part of persons subject thereto which cannot be completed by the effective time thereof.

(b) *Order* (1) The quantity of lemons grown in the State of California or in the State of Arizona which may be handled during the period beginning at 12:01 a.m., P s. t., Ocober 9, 1955, and ending at 12:01 a. m., P s. t., October 16, 1955, is hereby fixed as follows:

(i) District 1. Unlimited movement;

(ii) District 2: 150 carloads;

(iii) District 3: Unlimited movement.

(2) As used in this section, "handled," "carloads," "District 1," "District 2," and "District 3" shall have the same meaning as when used in the said amended marketing agreement and order.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: October 6, 1955.

[SEAL] S. R. SMITH,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F. R. Doc. 55-8216; Filed, Oct. 7, 1955; 9:20 a. m.]

TITLE 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice

MISCELLANEOUS AMENDMENTS TO CHAPTER

The following amendments to Chapter I of Title 8 of the Code of Federal Regulations are hereby prescribed:

PART 212—DOCUMENTARY REQUIREMENTS FOR NONIMMIGRANTS: ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

1. The first proviso of subparagraph (2) of paragraph (b) of § 212.3 *Nonimmigrants not required to present passports, visas, or border-crossing identification cards* is amended to read as follows: "Provided, That such alien is in possession of a travel document which is valid for his entry into a foreign country for a period of not less than 30 days after the date his immediate and continuous transit through the United States begins:"

2. Section 212.81 is amended to read as follows:

§ 212.81 *Application for permission to enter the United States temporarily; prior to application for admission at a port of entry.* An application for the exercise of discretion under section 212 (d) (3) of the act, prior to the alien's application for admission, is made on Form I–192 before a consular officer if a visa is required, and such officer may forward a report to the Visa Office of the State Department. If a favorable recommendation is made by the consular officer or the Secretary of State, the matter is submitted by the Visa Office to the Assistant Commissioner, Examinations Division for his approval or disapproval. In all other cases where application is made prior to the alien's application for admission and the alien is in possession of appropriate documents or has been granted a waiver thereof, the application shall be submitted to the district director having jurisdiction over the intended port of entry, unless the ground of inadmissibility is within paragraph (9), (10) or (28) of section 212 (a) of the act. In such cases, the application shall be

submitted to the regional commissioner having jurisdiction over the intended port of entry. If Form I–192 is not readily available and the case is one of unforeseen emergency, the application shall be in writing and shall contain all the information required by such form. The applicant shall be notified of the decision and, if the application is denied, of the reasons therefor and of his right to appeal to the Board within 10 days from the receipt of such notification in accordance with Part 6 of this chapter.

PART 243—DEPORTATION OF ALIENS IN THE UNITED STATES

1. Paragraph (c) of § 243.3 *Execution of warrants of deportation* is amended to read as follows:

(c) *Permission to depart when ordered deported.* District directors and officers in charge may, in their discretion, permit an alien who has been ordered deported to leave the United States at his own expense and to a destination of his own choice. Any alien who has so left the United States is considered to have been deported in pursuance of law.

2. Section 243.31 is added to read as follows:

§ 243.31 *Fees.* Except as otherwise provided in this section and § 2.5 of this chapter, a stay of deportation requested by an alien under this part shall be accompanied by a fee of $25 as prescribed by, and remitted in accordance with, the provisions of Part 2 of this chapter. In any case in which an alien or other party affected is unable to pay the fee for requesting a stay of deportation, he shall file with the request for a stay his affidavit stating the nature of the request for a stay, the affiant's belief that he is entitled to redress, his inability to pay the required fee, and request permission to prosecute the stay without prepayment of such fee. If such an affidavit is filed, the district director, if the request for a stay of deportation is made pursuant to the provisions of § 243.3 (b) (1), may, in his discretion, stay deportation without prepayment of fee. If such an affidavit is filed and the request for a stay of deportation is made pursuant to the provisions of § 243.3 (b) (2) the special inquiry officer shall, if he believes that the request for a stay is not made in good faith, certify in writing his reasons for such belief for consideration by the regional commissioner. The regional commissioner may, in his discretion, withhold deportation without prepayment of fee.

PART 263—REGISTRATION OF ALIENS IN THE UNITED STATES: PROVISIONS GOVERNING SPECIAL GROUPS

Paragraph (a) of § 263.2 *Certain Canadian citizens and British subjects; agricultural workers* is amended to read as follows:

(a) The duty imposed on aliens in the United States by section 262 of the Immigration and Nationality Act to apply for registration shall not be applicable to Canadian citizens or British subjects admitted to the United States under the provisions of § 212.3 (a) (1), (2) or (7) of this chapter who depart from the United States within six months of admission. If such an alien's stay in the United States is to exceed six months, an application for registration in accordance with the provisions of section 262 of the Immigration and Nationality Act shall be made prior to the expiration of the six-month period.

(Sec. 103, 66 Stat. 173; 8 U. S. C. 1103)

This order shall become effective on the date of publication in the FEDERAL REGISTER. Compliance with the provisions of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C. 1003) as to notice of proposed rule making and delayed effective date is unnecessary in this instance because the rules prescribed by the order, other than that which relates to a matter of agency procedure, relieve restrictions and are clearly advantageous to persons affected thereby.

Dated: September 30, 1955.

J. M. SWING,
Commissioner of Immigration and Naturalization.

[F. R. Doc. 55-8185; Filed, Oct. 7, 1955; 8:50 a. m.]

Chapter II—Office of Alien Property, Department of Justice

PART 502—RULES OF PROCEDURE FOR CLAIMS UNDER THE TRADING WITH THE ENEMY ACT

Part 502 sets forth the rules of procedure of the Office of Alien Property applicable to claims under sections 9 (a), 32 and 34 of the Trading With the Enemy Act, as amended (50 U. S. C. App. 9 (a), 32 and 34) The part also prescribes the procedure under section 20 of that Act (50 U. S. C. App. 20) for determination of fees of agents, attorneys and representatives in connection with such claims. It presently provides that in all cases the final decisions of the Office with respect to such claims and fees shall be the decisions of the Hearing Examiners or of the Director, as the case may be. It has been determined that in all cases the Hearing Examiners shall issue recommended decisions subject to review by the Director who shall issue the final decision of the Office except in cases of claims involving $50,000 or more and in cases of fees involving $25,000 or more. In these excepted cases the decision of the Director shall be subject to review by the Attorney General at the discretion of the latter. Accordingly, Part 502 requires amendment to conform it to this procedure. Since the amendment is one of procedure, neither notice nor hearing thereon is required by statute.

Part 502 is hereby amended to read as follows:

Subpart A—General Rules

Subpart B—Title Claims

Subpart C—Debt Claims

Subpart D—General Claims

AUTHORITY: §§ 502.1 to 502.300 issued under 40 Stat. 411, as amended; 50 U. S. C. App. 1–49. E. O. 9193, July 6, 1942, 7 F. R. 5205, 3 CFR, 1943 Cum. Supp.; E. O. 9725, May 16, 1946, 11 F. R. 5381, 3 CFR, 1946 Supp.; E. O. 9788, October 14, 1946, 11 F. R. 11981, 3 CFR, 1946 Supp.; E. O. 10254, June 15, 1951, 16 F. R. 5523, 3 CFR, 1951 Supp.

SUBPART A—GENERAL RULES

§ 502.1 *Scope of part.* (a) Sections 502.1 to 502.32 shall be applicable solely to title and to debt claims.

(b) Sections 502.100 to 502.110 shall be applicable solely to title claims.

(c) Sections 502.200 to 502.205 shall be applicable solely to debt claims.

(d) Section 502.300 shall be applicable to all claims other than title and debt claims as defined in § 502.2 (e) and (f).

§ 502.2 *Definitions.* As used in this part, unless the context otherwise requires:

(a) The term "act" means the Trading With the Enemy Act, as amended. The term "section" refers to a section of the act.

(b) The term "Office" means the Office of Alien Property.

(c) The term "rules" means the rules of the Office set forth in this part.

(d) The term "Director" means the Director, Office of Alien Property, or other person duly authorized to perform his functions.

(e) The term "title claim" means a claim under sections 9 (a) or 32.

(f) The term "debt claim" means a claim under section 34.

(g) The term "claim" refers to a title claim or a debt claim and shall include the Notice of Claim form, any amendment thereto, and such other material as may have been filed by the claimant with respect to the claim.

(h) The term "excepted claim" means (1) any title claim which involves the return of assets having a value of $50,000 or more and any debt claim in the amount of $50,000 or more; (2) any title claim which the Director finds will, as a practical matter, control the disposition of related title claims involving, with the principal claim, assets having a value of $50,000 or more; and any debt claim which the Director finds will, as a practical matter, control the disposition of related debt claims in the aggregate amount, including the principal claim, of $50,000 or more; (3) any title claim or debt claim presenting a novel question of law or a question of policy which, in the opinion of the Director, should receive the personal attention of the Attorney General.

(i) The term "non-excepted claim" shall mean any claim other than an "excepted claim"

(j) The term "claimant" means the person in whose behalf a claim is filed.

(k) The term "claim proceeding" means the administrative processing of a claim and includes the claim.

(l) The term "parties" includes the claimant and the Chief of the Claims Section.

(m) The term "vested property" means any property or interest vested in or transferred to the Alien Property Custodian or the Attorney General of the United States pursuant to the act (other than any property or interest so acquired by the United States prior to December 18, 1941) or the net proceeds thereof.

(n) The term "filing" means receipt by the Office or appropriate officer or employee thereof.

(o) The term "Chief Hearing Examiner" refers to the hearing examiner designated as such by the Director.

(p) The term "docketed claim" means a claim which has been referred by the Director or the Chief of the Claims Section to the Chief Hearing Examiner for hearing and has been given a docket number.

(q) The term "hearing" means the proceedings upon a docketed claim.

§ 502.3 *Indispensable party.* The Chief of the Claims Section shall be a necessary party in all claim proceedings.

§ 502.4 *Appearance.*[1] (a) A claimant may appear in a claim proceeding in person or may be represented by an agent, attorney in fact or at law. A member of a partnership may represent the partnership; an officer of a corporation, trust or association may represent the corporation, trust or association, and an officer or employee of a federal, state or territorial agency, office or department may represent the agency, office or department.

(b) Any person appearing in a claim proceeding in a representative capacity may be required to file a power of attorney showing his authority to act in such capacity.

§ 502.5 *Intervention.* Any person who claims to have a substantial interest in a docketed claim proceeding may file a specification of such interest in writing with the Hearing Examiner after serving a copy thereof upon the parties. Upon a finding by the Hearing Examiner that the petitioner has a substantial interest which may be adversely affected by the proceeding he may authorize the petitioner to participate in the proceeding upon such conditions as may be imposed.

§ 502.6 *Forms.* (a) Claims shall be filed on forms authorized or prescribed by the rules of this Office.

(b) Subject to the provisions of sections 33 and 34 (b) of the act, the Director or the Chief of the Claims Section may expressly waive the requirement of paragraph (a) of this section.

NOTE: Section 501.80 of this chapter prescribes forms for use in filing claims. Section 501.50 (d) of this chapter provides that when allowance of a claim under the act is dependent on issuance of a license under Executive Order 8389, 3 CFR, 1943 Cum. Supp., as amended, the filing of a claim is deemed to include an application for a requisite license.

§ 502.7 *Amendment and withdrawal of claim.* (a) Subject to the provisions of sections 33 and 34 (b) of the act, the claimant may amend his claim prior to hearing, or after the opening of a hearing in a claim proceeding by consent of the Chief of the Claims Section or as allowed by the Hearing Examiner or the Director.

(b) The claimant may at any time withdraw his claim by notice in writing to that effect.

§ 502.8 *Order for hearing.* The Director, or the Hearing Examiner in any docketed claim proceeding, may issue an order for hearing. In fixing the time for hearing, due regard shall be given to the status of the claim proceeding and the convenience of the parties. The order shall specify the time, place, and nature of the hearing. The order shall be served on all parties a reasonable time, but not less than ten (10) days, in advance of the hearing, unless the parties shall agree to a shorter time.

§ 502.9 *Designation of Hearing Examiner* Prior to a hearing, a Hearing Examiner shall be designated by the Chief Hearing Examiner.

§ 502.10 *Removal of a claim proceeding and hearing by the Director* The Director may personally conduct a hearing and may exercise the other functions appropriate to the Hearing Examiner. The Director, at any stage of a claim proceeding before a Hearing Examiner, may remove the claim proceeding from the Hearing Examiner. Decisions of the Director under this section shall first be issued in tentative form and the Director shall fix a time within which all parties may submit exceptions and briefs with reference thereto and after which he shall render his final decision. In the case of non-excepted claims, this decision shall be the decision of the Office. In the case of excepted claims, the Director shall deliver a copy of this decision to the Attorney General immediately upon its issuance, together with the record and all exceptions and briefs. Such decision shall become the decision of the Office unless within 60 days from the date thereof the Attorney General by order directs review thereof. An order for review shall fix a time within which the parties may submit exceptions and briefs with reference to the decision of the Director. After the expiration of such time the Attorney General shall render a final decision which shall be the decision of the Office. The decision of the Attorney General shall be returned to the Director for service on all parties and for the Director's further action in accordance with the rules in this part.

§ 502.11 *Pre-hearing conferences.* (a) At any time after a claim has been docketed with the Chief Hearing Examiner and prior to hearing, the Hearing Examiner may arrange for the parties to appear before him at a designated time and place for the purpose of determining the issues between the parties and obtaining admissions or stipulations with respect to any matters, records, or documents which will be relied upon by any party at the hearing.

(b) At the conclusion of the conference, the Hearing Examiner shall prepare an order setting forth the issue or issues to be determined at the hearing and describing the matters, records, or documents which the parties have admitted or stipulated. Such order shall be presented to each of the parties for their approval and when approved by them shall be made a part of the record in the claim preceeding and shall be conclusive as to the action embodied therein.

§ 502.12 *Consolidation of claims.* The Director, the Chief Hearing Examiner, or the designated Hearing Examiner, may, where such action will expedite the disposition of claims and further the ends of justice, consolidate docketed claims.

§ 502.13 *Hearings.* (a) All hearings, except hearings before the Director, shall be conducted by a Hearing Examiner. At any time prior to hearing, a Hearing Examiner may be designated to

[1] *Cross reference.* For limitations on representative activities, see § 505.60 of this chapter. For powers of attorney, see § 505.1 (d) of this chapter.

take the place of the Hearing Examiner previously designated to conduct the hearing. In the case of the death, illness, disqualification or unavailability of the Hearing Examiner presiding in any claim proceeding, another Hearing Examiner may be designated to take his place. Hearing Examiners shall, so far as practicable, be assigned to cases in rotation.

(b) The Hearing Examiner may withdraw from a case when he deems himself disqualified or he may be withdrawn by the Director after affidavits alleging personal bias or other disqualifications have been filed with the Director and the matter has been considered by the Director or by a Hearing Examiner upon referral by the Director.

(c) Hearings shall be open to the public unless otherwise ordered by the Director or the Hearing Examiner.

(d) Subject to the Rules of this Office, including this part, Hearing Examiners presiding at hearings shall have the hearing powers set forth in section 7 (b) of the Administrative Procedure Act.

(e) Hearing Examiners shall act independently in the performance of their duties as examiners and perform no duties inconsistent with their duties and responsibilities as examiners. Save to the extent required for the disposition of ex parte matters, no Hearing Examiner shall consult any person or party as to any fact in issue unless upon notice and opportunity for all parties to participate.

(f) The claimant shall be the moving party and shall have the burden of proof on all the issues involved in the claim proceeding. The claimant shall proceed first at the hearing.

(g) A presumption of the accuracy and the validity of the findings in a vesting order as to ownership of the property immediately prior to vesting shall be operative in all claims. Such findings shall be deemed accurate and valid unless contested or put in issue by a party, in which event such party shall have the burden of proving his allegations as to ownership of the property involved immediately prior to vesting.

(h) Any party and the Hearing Examiner shall have the right and power to call, examine and cross-examine witnesses, and to introduce into the record documentary or other evidence.

(i) In a claim proceeding, the rules of evidence prevailing in courts of law and equity shall not be controlling. However, it shall be the policy to exclude irrelevant, immaterial or unduly repetitious evidence.

(j) Any record, document or other writing, or any portion thereof, from the files of any foreign industrial, business or commercial enterprise, or from the official files of a foreign government, or any subdivision or agency thereof, shall, if otherwise relevant, be admissible in evidence in a claim proceeding as competent evidence of the matters therein contained, when authenticated by a certificate of an investigator of this Office or any other agency of the United States, or by a duly designated representative of the allied military or civilian authority of occupation, stating that such record, document or other writing came from the files of such enterprise, or from the official files of such foreign government. All circumstances in the making of such record, document or writing, as well as the lack of opportunity for cross-examination, shall be considered by the Attorney General, the Director or the Hearing Examiner in determining its weight, but shall not affect its admissibility. A copy of such record, document or writing shall be equally admissible as the original when accompanied by a certificate of any of the persons hereinabove designated, stating that it conforms to the original. The methods of authentication provided for in this rule shall be in addition to, and not exclusive of, other methods of authentication.

(k) All investigative reports, affidavits, or other written statements of persons that reside at a distance of more than 100 miles from the place of a hearing or are otherwise unavailable as witnesses, when signed by an investigator of this Office or any other agency of the United States, or by the person making such affidavit or statement, shall be accepted as evidence and made a part of the record in a claim proceeding. All circumstances in the making of such investigative report, affidavit, or other written statement, as well as the lack of opportunity for cross-examination shall be considered by the Attorney General, the Director or the Hearing Examiner in determining its weight, but shall not affect its admissibility. A copy of any investigative report shall be equally admissible as the original when accompanied by a statement of an official of this Office or other agency of the United States that it is a copy of such report.

(l) In the discretion of the Hearing Examiner, the hearing may be adjourned from day to day or adjourned to a later date or to a different place by announcement thereof at the hearing by the Hearing Examiner or by appropriate notice.

(m) In the discretion of the Hearing Examiner, any witness may be excluded until he is called upon to testify. Contemptuous conduct at any hearing before a Hearing Examiner shall be ground for exclusion from the hearing. Failure or refusal of a witness to appear at any such hearing or to answer any question which has been ruled to be proper may be ground for the striking out of all testimony which may have been previously given by such witness on related matters.

(n) Hearings shall be stenographically reported by a reporter designated by the Director or Chief Hearing Examiner and a transcript of such report shall be a part of the record and the sole official transcript of the proceeding. Such transcript shall include a verbatim report of the hearings. Nothing shall be omitted therefrom except as directed on the record by the Director or the Hearing Examiner. Corrections in the official transcript may be made with the consent of the Hearing Examiner to make it conform to the evidence presented at the hearing. Parties desiring copies of the transcript may obtain such copies from the official reporter upon payment of the fees fixed therefor.

(o) Hearings may be waived by the parties and the claim submitted to the Hearing Examiner, or to the Director, with his consent, on a stipulated record or an agreed statement of facts.

§ 502.14 *Witnesses.* (a) Witnesses shall be examined orally under oath or affirmation, to be administered by the Hearing Examiner, except that for good cause testimony may be taken by deposition.

(b) Witnesses summoned before the Director or the Hearing Examiner shall be paid the same fees and mileage which are paid witnesses in the Courts of the United States. Witness fees and mileage shall be paid by the party at whose instance the witnesses appear.

§ 502.15 *Subpoenas.* (a) The Director, or in the case of any docketed claim the Chief Hearing Examiner or the Hearing Examiner, shall upon application by any party, and upon a showing of general relevance and reasonable scope of the evidence sought, issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence under oath, including books, records, correspondence or documents. Application for the issuance of subpoenas duces tecum shall specify the books, records, correspondence or other documents sought.

(b) The Director, Chief Hearing Examiner or the Hearing Examiner, before issuing any subpoena, may require a deposit of an amount adequate to cover the fees and mileage involved.

§ 502.16 *Depositions.* (a) Any party desiring to take a deposition shall make application therefor in writing, setting forth the reasons why such deposition should be taken, the name and residence of the witness, the matters concerning which it is expected the witness will testify, and the time and place proposed for the taking of the deposition. Thereupon, the Director, or in the case of a docketed claim the Chief Hearing Examiner or the Hearing Examiner, may, in his discretion, issue an order which will name the witness whose deposition is to be taken, state the scope of the testimony to be taken and specify the time when, the place where, and the officer before whom the witness is to testify. Such order shall be served upon all parties by the Director, the Chief Hearing Examiner, or the Hearing Examiner, as the case may be, a reasonable time in advance of the time fixed for taking testimony.

(b) The testimony shall be taken under oath or affirmation and shall be reduced to writing by the officer or under his direction, after which the deposition shall be subscribed by the witness and certified by the officer.

(c) Depositions may also be taken and submitted on written interrogatories in substantially the same manner as depositions taken by oral examination. When a deposition is taken upon written interrogatories and cross-interrogatories, none of the parties shall be present or represented, and no person, other than the witness, a stenographic reporter, and the officer shall be present at the examination of the witness, which fact shall be certified by the officer, who shall propound the interrogatories and cross-

interrogatories to the witness in their order and reduce the testimony to writing in the witness' own words.

(d) Where the deposition is taken in a foreign country and the officer designated in the authorization is unavailable, it may be taken before a secretary of an embassy or legation, consul general, consul, vice consul, or consular agent of the United States, or before such person as may be agreed upon by the parties stipulating in writing.

(e) A witness whose deposition is taken pursuant to the rules in this part and the officer taking the deposition, unless he be employed by the Office, shall be entitled to the same fees and mileage paid for like service in the Courts of the United States, which fees shall be paid by the party at whose instance the deposition is taken, who may be required to deposit in advance an amount adequate to cover the fees and mileage involved.

§ 502.17 *Documents in a foreign language.* Every document, exhibit or paper written in a language other than English, which is filed in any claim proceeding, shall be accompanied by complete English translation thereof duly verified to be a true and accurate translation. Each copy of every such document, exhibit or paper filed shall be accompanied by a separate copy of the translation. For good cause verification may be waived. If a document, exhibit or paper in a foreign language is offered in evidence at a hearing any dispute as to the accuracy of the translation thereof shall be determined as is any other issue of fact.

§ 502.18 *Motions.* (a) All motions and requests for rulings addressed to the Director, Chief Hearing Examiner or the Hearing Examiner shall state the purpose of and the relief sought, together with the reasons in support thereof.

(b) All motions and requests for rulings made during a hearing in a claim proceeding may be stated orally and shall be made a part of the transcript.

(c) Motions and requests which relate to the introduction or striking of evidence, or which relate to procedure during the course of a hearing, or to any other matters within the authority of the Hearing Examiner, may be stated orally and shall be ruled on by the Hearing Examiner. No exception need be taken to any ruling in order to entitle a party thereafter in the claim proceeding to assign the ruling as error.

§ 502.19 *Withdrawal of papers.* (a) No paper, document or claim officially filed shall be returned unless the Director shall allow such return. The granting of a request to dismiss a claim or withdraw a paper, document or claim does not authorize the removal of the paper, document or claim from the records of the Office.

(b) Where the original of a record, document or other paper is offered in evidence at a hearing a photostatic or conformed copy thereof may be substituted during the course of the hearing with the approval of the Hearing Examiner.

§ 502.20 *Oral argument.* The Director or the Hearing Examiner, as the case may be, may grant to any party at the close of a hearing a reasonable period for oral argument and such argument may, with the consent of the hearing officer, be included in the stenographic report of the hearing.

§ 502.21 *Proposed findings and conclusions.* (a) At the close of the reception of evidence before the Hearing Examiner or within a reasonable time thereafter, to be fixed by the Hearing Examiner, any party may, and if directed by the Hearing Examiner shall, submit to the Hearing Examiner proposed findings and conclusions together with a brief in support thereof. Such proposals shall be in writing and shall contain appropriate references to the record. Copies thereof shall be served on all parties. Reply briefs may be filed with the permission of the Hearing Examiner within a reasonable time, to be fixed by him. As far as practicable the procedure shall be followed of having claimant's brief filed first, followed by the brief of the Chief of the Claims Section with any reply briefs filed in the same order.

§ 502.22 *Hearing Examiner's decision.* (a) The Hearing Examiner, as soon as practicable after receipt of the complete transcript, all exhibits and briefs, shall make a recommended decision which shall include proposed findings and conclusions as well as the reasons or basis therefor upon all the material issues of fact or law presented on the record. Such recommended decision shall become part of the record.

(b) At any time prior to the filing of his recommended decision, the Hearing Examiner may, for good cause, re-open the case for the reception of further evidence.

(c) A copy of the Hearing Examiner's recommended decision shall be served upon each party.

(d) In the case of the death, illness, disqualification or unavailability of the Hearing Examiner who presided at the hearing, the Director shall make a tentative decision or shall designate another Hearing Examiner to make a recommended decision.

(e) At any time prior to the filing of exceptions to a recommended decision of a Hearing Examiner and if the time for filing such exceptions has not expired pursuant to § 502.23, the Hearing Examiner shall have authority to amend, modify or vacate orders issued by him, to the extent that such amendment, modification or vacation may be desirable to correct typographical or procedural errors or to make purely ministerial changes therein, but not otherwise.

§ 502.23 *Review of the Hearing Examiner's recommended decision.* Within 30 days after service of the Hearing Examiner's recommended decision, any party objecting thereto shall file exceptions with the Director. Where exceptions are filed the Director shall fix a time for the filing of briefs. If no exceptions are filed within 30 days of the service of the Hearing Examiner's recommended decision, any party shall have an additional 15 days within which to file a brief with the Director. After the expiration of the time for filing of briefs the Director shall, in non-excepted claims, render his decision which shall be the decision of the Office. After the expiration of such time in the case of excepted claims the Hearing Examiner shall certify the entire record to the Director for initial decision. The Director shall then render an initial decision which shall be served on the parties and a copy thereof immediately delivered to the Attorney General, together with the record and all exceptions and briefs. Such initial decision shall become the decision of this Office unless within 60 days from the date thereof the Attorney General by order directs review thereof. An order for review shall fix a time within which the parties may submit exceptions and briefs with reference to the initial decision of the Director. After the expiration of such time the Attorney General shall render a final decision which shall be the decision of this Office. The decision of the Attorney General shall be returned to the Director for service on all parties and for the Director's further action in accordance with the rules in this part.

§ 502.24 *Waiver by the Director or the Attorney General.* The Director or the Attorney General, as the case may be, may with the consent of the parties, waive any of the requirements of this part, when, in his opinion, the ends of justice would thereby be served.

§ 502.25 *Motion to dismiss.* (a) Motion to dismiss any claim may be made by the Chief of the Claims Section, which motion shall be in writing and shall state the reasons in support thereof and may be accompanied by supporting documents. The Chief of the Claims Section shall obtain from the Chief Hearing Examiner a date and place of hearing. Thereupon the Chief of the Claims Section shall serve a copy of the motion, together with a notice of the date and place of hearing, upon all parties, and shall docket the motion and statement of service with the Chief Hearing Examiner.

(b) Hearing on the motion shall be held at the time and place specified in the notice, or at such other time and place as may be fixed by the Hearing Examiner.

(c) The claimant shall file any affidavits, papers or documents in opposition to the motion with the Hearing Examiner, after service upon the Chief of the Claims Section not later than five (5) days prior to the date of hearing.

(d) Briefs may be submitted within the time fixed by the Hearing Examiner.

(e) Hearing before a Hearing Examiner may be waived by the parties and, with the consent of the Director, the matter submitted to him for decision.

(f) A claim shall be dismissed when it appears that there is no genuine issue as to any material fact and the claim cannot be allowed as a matter of law or when the claim has been abandoned.

(g) A claim shall be deemed abandoned when after request to do so the claimant has not furnished relevant information in support of his claim, or where by virtue of his failure to respond to inquiries regarding the claim it appears that he does not wish to pursue it

further. The Hearing Examiner may on his own motion enter a recommended order dismissing a docketed claim as abandoned when the claimant fails to produce any information or document ordered so produced by the Hearing Examiner.

(h) All decisions or orders of the Hearing Examiners on motions to dismiss shall be recommended decisions or orders only and shall be subject to review in accordance with the provisions of § 502.23.

(i) Notwithstanding the provisions of this section the Chief of the Claims Section may serve a notice upon the claimant that, after the expiration of a time fixed in the notice, which time shall not be less than thirty (30) days, he intends to apply to the Director for an order dismissing the claim. The notice shall state the grounds for dismissal and the claimant may, within the time indicated in the notice, file a statement specifying his objections to dismissal, together with his reasons in support thereof; any evidence or other material in support of the claim which has not previously been filed with this Office shall be filed by the claimant with the statement of objections. Upon application by the Chief of the Claims Section for an Order dismissing the claim, the Director will consider the objections if any, which may have been filed. The Director thereafter may remand the application to the Chief of the Claims Section for further proceeding under these rules, or in the case of non-excepted claims if it appears to him that there is no genuine issue may issue an order dismissing the claim. In cases of excepted claims where the Director is of the opinion there is no genuine issue he shall transmit the record together with any objections which have been filed to the dismissal of the claim to the Attorney General, and upon approval by the Attorney General, the Director shall enter an order dismissing the claim.

§ 502.26 *Service*—(a) *By the Chief Hearing Examiner* Decisions, notices of hearing, and orders shall be served by the Chief Hearing Examiner by registering and mailing a copy thereof to the parties, addressed to the claimant, his agent or attorney. Notices of all other actions may be served by ordinary mail, except where other methods are specifically required by the rules of this part. When service is not made by registered mail, it may be made by anyone duly authorized by the Chief Hearing Examiner by delivering a copy thereof at the principal place of business of the party to be served within reasonable office hours. The return of the person making service shall be proof of such service.

(b) *By the Chief of the Claims Section.* Service by the Chief of the Claims Section of a notice of the date and place of hearing of a motion or of a notice pursuant to § 502.25 (i) shall be by registered mail.

(c) *By the Director* Any action taken by the Attorney General or the Director in a claim proceeding shall be served by the Director in the manner provided in paragraph (a) of this section.

(d) *By parties.* Motions, briefs, proposed findings and conclusions, notices and all other papers filed in a claim proceeding, when filed with the Director or Hearing Examiner, shall show service thereof upon the parties to the claim proceeding. Such service shall be made by delivering in person or by mailing except as otherwise provided by the rules of this part.

(e) *Service upon attorneys or agents.* When any party has appeared by attorney or agent, service upon the attorney or agent shall be deemed service upon the party.

(f) *Date of service.* The date of service shall be the day when the matter is deposited in the United States mail or delivered in person, as the case may be.

§ 502.27 *Computation of time.* In computing any period of time prescribed or allowed by this part, the last day of the period so computed is to be included, unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the last day which is neither a Saturday, Sunday nor legal holiday.

§ 502.28 *Continuances and extensions.* Continuance with respect to any claim proceeding or hearing and extension of time for filing, or performing any act required or allowed to be done within a specified time, may be granted by the Attorney General, the Director, Chief Hearing Examiner or the Hearing Examiner upon motion, for good cause shown, except where time for performance or filing is limited by the act.

§ 502.29 *Fees.* (a) In the making of the fee determination required by section 20 of the Trading With the Enemy Act, as amended, all recommended fee determinations of $25,000 or more shall be treated in the same manner as excepted claims and recommended fees of less than $25,000 shall be treated in the same manner as non-excepted claims for the purposes of the rules in this part. The procedures set forth in § 502.201 of the rules in this part shall govern a fee determination without a hearing.

(b) The Chief of the Claims Section may docket any issue as to a fee determination for a hearing by a Hearing Examiner. At any hearing before the Hearing Examiner involving a fee determination the parties and their counsel shall have the right to offer evidence and oral or written arguments. The review provisions of § 502.23 shall be applicable to the recommended decision of the Hearing Examiner with respect to fees.

(c) No fees shall be approved for an agent, attorney or representative in any case where upon request such agent, attorney or representative neglects or refuses to furnish to this Office a schedule of his fees or such other information which may be required. In such cases it shall be conclusively presumed that no fee shall be charged by such agent, attorney or representative.

§ 502.30 *Filing of debt claims by depositors of Yokohama Specie Bank, Ltd., Honolulu Branch.* Notices of Claim for Return of Property heretofore filed by depositors of the Yokohama Specie Bank, Ltd., Honolulu Branch, in respect of principal and interest accruing to the date of the closing of said bank on December 7, 1941, shall be considered as including Notices of Claim for Payment of Debt under section 34 of the act covering interest accruing subsequent to the closing of said bank. Releases and receipts executed by such claimants on account of return orders issued in connection with their Notices of Claim for Return of Property shall not be a bar to the allowance of their debt claims for post-closing interest in the event the Director subsequently determines that such post-closing interest is payable. The foregoing shall not be construed as a present determination by the Director as to the validity of such debt claims. (E. O. 9567, June 8, 1945, 10 F. R. 6917; 3 CFR, 1945 Supp.)

§ 502.31 *Filing of claim as condition precedent to suit.* The filing, heretofore or hereafter, of a claim under section 32 of the act shall constitute the filing of notice required by section 9 of the act as a condition precedent to the filing of a suit in equity for the return of property vested in or transferred to the Attorney General of the United States pursuant to the act.

§ 502.32 *Effect of disallowance of claim in determining period of limitations for filing suit.* The final disallowance under the rules of this part of any claim for the return of property filed under the act shall constitute a disallowance for the purpose of determining the period of limitations, prescribed in section 33 of the act, within which a suit pursuant to section 9 of the act may be instituted.

SUBPART B—TITLE CLAIMS

§ 502.100 *Definitions.* As used in §§ 502.100 to 502.110, applicable solely to title claims, unless the context otherwise requires:

(a) The term "taxes" refers to taxes as defined under section 36 (d) of the act.

(b) The term "national interest" means the interest of the United States under section 32 (a) (5) of the act.

(c) The term "conservatory expenses" means expenses expended or incurred in the conservation, preservation or maintenance of vested property.

§ 502.101 *Order of processing.* Except in cases where hardship or other special circumstances exist, claims shall be processed, as nearly as practicable, in the order of their filing.

§ 502.102 *Procedure for allowance without hearing.* (a) The Chief of the Claims Section may initiate a proceeding for allowance of a claim, or a separable part thereof, which he deems entitled to allowance without the necessity of a hearing thereon, by submitting to the Director a recommendation for allowance.

(b) The record in a claim proceeding under this procedure shall include the Notice of Claim, the evidence with respect thereto, and the recommendation for allowance.

(c) In the case of non-excepted claims the Director shall consider the record and may allow the claim. In the case of

excepted claims the Director shall transmit the record with his recommendation for allowance to the Attorney General who may approve the recommendation. In such cases the claim shall be returned to the Director for further proceedings in accordance with the rules in this part.

(d) If the Attorney General or the Director shall disagree with a recommendation for allowance, the claim shall be remanded to the Chief of the Claims Section for hearing or such other action as may be appropriate.

(e) A claim under this procedure may be allowed notwithstanding the fact that the Chief of the Claims Section makes no recommendation with respect to taxes or conservatory expenses. However, no return will be made prior to a determination of such matters and adequate provision made therefor.

§ 502.103 *Requirement for hearing.* No claim shall be allowed or disallowed except after hearing, unless the claim has been determined pursuant to § 502.25 (i), § 502.102 or § 502.105.

§ 502.104 *Hearing calendar* The Chief Hearing Examiner shall maintain a hearing calendar and docket of all docketed claim proceedings.

§ 502.105 *National interest.* (a) In the case of non-excepted claims where it appears to the satisfaction of the Director that a return of vested property is not in the national interest pursuant to section 32 (a) (5) of the act, he may (1) by order disallow the claim by citation of this section, or (2) by order suspend, for a fixed or indefinite time, further action by the Office in the claim proceeding by citation of this section. In the case of excepted claims where it appears to the satisfaction of the Director that a return of vested property is not in the national interest as aforesaid he shall transmit the record to the Attorney General for his consideration and the Attorney General may (1) by order disallow the claim by citation of this section, (2) by order suspend for a fixed or indefinite time further action by the Office of Alien Property in the claim proceeding by citation of this section, or (3) return the claim to the Director for such action as the Attorney General deems appropriate.

(b) The Director may direct with respect to any question of fact relating to national interest, that a hearing be held before himself, a Hearing Examiner or such other person or persons as he may designate. In such a hearing the hearing officer or officers shall prepare recommended findings of fact only which shall be submitted to the Director with a transcript of the hearing.

§ 502.106 *Publication of notice of intention to return vested property.* In compliance with section 32 (f) of the act, prior to the return of vested property the Director will issue and file for publication with the FEDERAL REGISTER a notice of intention to return vested property, except that no such notice need be published where the return is to be made to a resident of the United States or a corporation organized under the laws of the United States, or any State, Territory, or possession thereof, or the District of Columbia.

§ 502.107 *Revocation of notice of intention to return vested property.* (a) The notice of intention to return vested property may be revoked by the Director at any time prior to return.

(b) Notice of such revocation shall be served on the parties and filed for publication with the FEDERAL REGISTER.

§ 502.108 *Return order* Where no notice of intention to return vested property has been issued, an order directing return will issue at the time the claim is allowed or as soon thereafter as practicable. Where notice of intention to return vested property has been issued, an order directing return will issue as soon as practicable after the expiration of thirty (30) days following the publication of the notice, except where the notice has been revoked in accordance with § 502.107.

§ 502.109 *Final audit.* Prior to making full and final return of property pursuant to a return order, a final audit with respect to the property involved will be made. Any transactions occurring in the administration of such property shall be given effect in determining the actual amount of cash and other property to be returned pursuant to the return order.

§ 502.110 *Return of vested property.* After issuance of the return order, completion of the final audit and final administrative determination with respect to taxes, fees and conservatory expenses, appropriate instruments and papers will issue returning the property claimed. The claimant receiving such property shall execute papers in such form as the Director shall determine, acknowledging receipt of the property returned.

SUBPART C—DEBT CLAIMS

§ 502.200 *Definitions.* As used in §§ 502.200 to 502.205 applicable solely to debt claims, unless the context otherwise requires:

(a) The term "vested property of a debtor" means property of a debtor which he owned immediately prior to its becoming vested property.

(b) The term "money available for payment of claims" means such money included in, or received as net proceeds from the sale, use, or other disposition of vested property of a debtor as shall remain after deduction of expenses and taxes.

(c) The term "expenses" means the amount of the expenses of the Office of Alien Property, the former Office of Alien Property Custodian, and the former Philippine Alien Property Administration, including both expenses in connection with vested property of the debtor involved and such portion as the Director shall fix of the other expenses of these agencies, and such amount, if any, as the Director may establish as a cash reserve for the future payment of such expenses.

(d) The term "taxes" means taxes as defined in section 36 (d) of the act, and includes taxes paid by the Director in respect of vested property of the debtor involved and such amount, if any, as the Director may establish as a cash reserve for the future payment of such taxes.

(e) The term "debtor's solvent estate" means money available for payment of claims which money at the time of computation exceeds the aggregate of claims filed against a particular debtor.

(f) The term "debtor's insolvent estate" means money available for payment of claims which money at the time of computation is less than the aggregate of claims filed against a particular debtor.

(g) The term "proposed payment" refers to payment proposed to be made to claimants whose claims against a debtor's insolvent estate have been allowed in whole or in part.

§ 502.201 *Procedure for allowance and payment without hearing of claims against debtors' solvent estates.* (a) With respect to claims against debtors' solvent estates, the Chief of the Claims Section may initiate a proceeding for allowance of a claim, or a separable part thereof which he deems entitled to allowance, without the necessity of a hearing thereon, by submitting to the Director a recommendation for allowance.

(b) The record in a claim proceeding under this procedure shall include the Notice of Claim, the evidence with respect thereto and the recommendation for allowance.

(c) In the case of non-excepted claims the Director shall consider the record and may allow the claim. In the case of excepted claims, the Director shall transmit the record with his recommendation for allowance to the Attorney General who may approve the recommendation. In such cases the Attorney General shall return the claim to the Director for further proceeding in accordance with the rules in this part.

(d) If the Attorney General or the Director shall disagree with a recommendation for allowance the claim shall be remanded to the Chief of the Claims Section for hearing or such other action as may be appropriate.

§ 502.202 *Claims against debtors' insolvent estates.* (a) Notices of claims filed with this Office against a particular debtor's insolvent estate shall be available for inspection by all claimants in respect of such estate in accordance with the provisions of § 503.1 (b) of this chapter.

(b) With respect to claims against a particular debtor's insolvent estate the Chief of the Claims Section may submit to the Director a recommendation for allowance of any claim or a separable part thereof which he deems entitled to allowance. The record shall include the Notice of Claim, the evidence with respect thereto and the recommendation for allowance. All such claims submitted to the Director shall be dealt with by him or the Attorney General in accordance with the procedures set forth in § 502.201 (c) and (d)

(c) Where the Chief of the Claims Section concludes for any reason that he cannot recommend allowance of a claim against a particular debtor's insolvent estate, the claim may be docketed for hearing. At such hearing, any other claimant against the particular debtor's

insolvent estate may file an application to be heard in accordance with the provisions of § 502.5. The recommended decision of a Hearing Examiner with respect to the claim is subject to review in accordance with the provisions of § 502.23.

(d) The Director may issue a tentative schedule showing all debt claims proposed to be allowed by him with the priorities assigned thereto and the payment to be made to each claimant. Notice of the issuance of the tentative schedule shall in the manner provided by § 502.26 be served on all claimants in respect of the particular debtor's estate, whose claims are then pending, together with notice that objections to such tentative schedule may be filed within the period prescribed in the notice, which period shall not be less than thirty (30) days. The tentative schedule shall be made available for inspection at the Office of Alien Property, Washington, D. C. With the consent of all claimants, the tentative schedule may be omitted.

(e) The Director shall consider any objection to the tentative schedule that may have been timely filed, and shall take such action as may be appropriate. As soon thereafter as appropriate, the Director shall as required by section 34 (f) of the act prepare and serve by registered mail on all claimants in respect of a particular debtor's insolvent estate, a final schedule of the debt claims allowed, with the priorities assigned thereto, and the proposed payment to each claimant.

(f) The Director may issue a tentative schedule and a final schedule limited to claims, payment of which, in accordance with the priorities assigned thereto by the Director pursuant to the provisions of section 34 (g) of the act, would not adversely affect the payment of any other claim in respect of the particular debtor's insolvent estate.

§ 502.203 *Requirement for hearing.* No claim shall be allowed or disallowed except after hearing, unless the claim has been determined pursuant to § 502.25 (i) § 502.201 or § 502.202.

§ 502.204 *Payment of allowed claims.* As soon as practicable after the allowance of a claim, in whole or in part, the claim will be paid to the extent allowed: *Provided, however* That with respect to claims against a debtor's insolvent estate, pending determination of any complaint for review filed under section 34 (f) of the act, payment may be made only to an extent, if any, consistent with the contentions of all claimants for review.

§ 502.205 *Future payments.* If additional monies become available for the payment of claims after the first payment on allowed claims in respect of a debtor's insolvent estate, the Director shall order further payments in accordance with the final schedule theretofore issued by him, or as modified on review under section 34 (f) of the act.

SUBPART D—GENERAL CLAIMS

§ 502.300 *General claims.* All claims against the Attorney General of the United States relating to the Office of Alien Property or against his predecessors, the Alien Property Custodian and the Philippine Alien Property Administrator, other than title and debt claims as defined in § 502.2 (e) and (f) and claims arising out of the seizure by or transfer to the Alien Property Custodian of property prior to December 18, 1941, shall be known as "general claims" under this part. Unless forms have been prescribed or authorized for the filing or assertion thereof, general claims may be filed or asserted by letter addressed to the Director of the Office of Alien Property containing a statement of the details of the claim.

Executed at Washington, D. C., on October 3, 1955.

[SEAL] DALLAS S. TOWNSEND,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 55-8172; Filed, Oct. 7, 1955; 8:49 a. m.]

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

Subchapter A—Civil Air Regulations

[Supp. 5]

PART 18—MAINTENANCE, REPAIR, AND ALTERATION OF AIRFRAMES, POWERPLANTS, PROPELLERS, AND APPLIANCES

MAJOR AND MINOR APPLIANCE ALTERATIONS

This supplement is issued for the guidance of users of approved radio equipment in making alterations. Alterations to radio communication and navigation equipment considered to be major appliance alterations are listed in § 18.1–1 (d) while minor alterations to the same equipment are listed in § 18.1–4 (d) New policies and interpretations are added for the testing of approved radio equipment after major alterations (§§ 18.30–20, 18.30–21)

1. Section 18.1–1 (d) as it appeared in 18 F. R. 7387 on November 21, 1953, is amended by adding a new subparagraph:

§ 18.1–1 *Major alterations (CAA interpretations which apply to § 18.1 (a) (15))* * * *

(d) *Appliance major alterations.* * * *

(1) *Radio communication and navigation equipment approved under type certification or the Technical Standard Order System.* Changes in the basic design which have an effect on frequency stability, noise level, sensitivity, selectivity, distortion, spurious radiation, AVC characteristics, or ability to meet environmental test conditions or any other changes which have an effect on the performance of the equipment are considered to be major appliance alterations.

2. Section 18.1–4 (d) as it appeared in 18 F. R. 7388 on November 21, 1953, is amended by adding a new subparagraph:

§ 18.1–4 *Minor alterations (CAA interpretations which apply to § 18.1 (a) (18))* * * *

(d) *Appliance minor alterations.* * * *

(1) *Radio communication and navigation equipment approved under type certification or the Technical Standard Order System.* Minor alterations include but are not limited to substitution of standard parts of one manufacturer for those of another. Such parts include but are not limited to tubes, semiconducting devices such as crystal diodes and transistors, resistors, capacitors, chokes, tube sockets, relay and standard hardware.

3. Section 18.11–2 as it appeared in 18 F. R. 7390 on November 21, 1953, and amended in 19 F. R. 4185, July 9, 1954, is further amended by adding a new paragraph (r) as follows:

§ 18.11–2 *Contacting CAA representative prior to alteration (CAA policies which apply to § 18.11).* * * *

(r) Major alterations to radio equipment approved under type certification or the TSO system which are not performed in accordance with a manual, specification, or other data approved by the Administrator, or with alteration data furnished by the manufacturer of an item under the TSO system.

4. Section 18.30–9 as it appeared in 18 F. R. 7413, November 21, 1953, is amended by adding a new paragraph (h) as follows:

§ 18.30–9 *Aircraft equipment (CAA policies which apply to § 18.30)* * * *

(h) *Radio equipment.* For information pertaining to alterations and testing of radio equipment, see §§ 18.30–20 and 18.30–21.

5. A new § 18.30–20 is added as follows:

§ 18.30–20 *Procedures covering major alteration of approved radio equipment (CAA interpretations which apply to § 18.30 (b))*—(a) *Radio equipment approved under Part 16 of this subchapter.* (1) When any major alteration is accomplished on radio equipment type certificated prior to January 1, 1953, such equipment shall comply with the requirements of Part 16 of this subchapter which were effective on the date of its type certification, provided the environmental test procedures contained in RTCA Paper 100–54/DO–60 may be used in lieu of the test procedures prescribed under Part 16 of this subchapter.

(2) When any major alteration is accomplished on radio equipment type certificated on or after January 1, 1953, such equipment shall comply with the requirements of Part 16 of this subchapter and RTCA Paper 100–54/DO–60,[1] which are the environmental test requirements specified in § 16.30–3 of this subchapter.

6. A new § 18.30–21 is added as follows:

§ 18.30–21 *Testing approved radio equipment after alteration (CAA policies*

[1] RTCA Paper 100–54/DO–60 was made effective as part of radio equipment type certification requirements by § 16.20–3 of this subchapter, as amended on April 15, 1955. The amendment made no changes in the requirements contained in RTCA Paper 50–52/DO–44 which was referred to in § 16.20–3 of this subchapter, effective January 1, 1953.

which apply to § 18.30 (b)) Where a CAA representative approval of major alteration to approved radio equipment is required, it will be necessary that such equipment, prior to such approval and at the discretion of the CAA representative, be subjected to any or all tests prescribed in Part 16 of this subchapter or the pertinent Technical Standard Order as applicable in order to determine whether the equipment meets the prescribed airworthiness requirements.

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interpret or apply secs. 601, 605, 52 Stat. 1007 as amended, 1010; 49 U. S. C. 551, 554)

This supplement shall become effective October 31, 1955.

[SEAL] F B. LEE,
Administrator of Civil Aeronautics.

[F. R. Doc. 55-8146; Filed, Oct. 7, 1955; 8:45 a. m.]

TITLE 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of Foreign Commerce, Department of Commerce

Subchapter B—Export Regulations

[7th Gen. Rev. of Export Regs., Amdt. 40]

PART 371—GENERAL LICENSES

PART 374—PROJECT LICENSES

MISCELLANEOUS AMENDMENTS

The following amendments represent merely editorial revisions of existing regulations.

1. Section 371.8 *General license GRO· shipments of non-Positive List commodities* is amended to read as follows:

§ 371.8 *General license GRO; shipments of non-Positive List commodities*—(a) *Scope of license.* (1) A general license designated GRO is hereby established, authorizing the exportation to all destinations of all commodities not included on the Positive List of Commodities (§ 399.1 of this subchapter) subject to the limitations set forth in this section.

(2) No exportations may be made under this general license to Subgroup A destinations. In addition, no such exportations ultimately destined to Hong Kong or Macao may be made except fresh fruits (Schedule B Nos. 130100 through 131990), fresh vegetables (Schedule B Nos. 120710 through 122490) and cut flowers (Schedule B No. 259910)

NOTE: Gift parcels containing commodities not on the Positive List may be shipped under General License GRO. Any commodity on the Positive List requires a validated license for export, even though intended as a gift, unless exportable under one of the other general licenses such as Gift (see § 371.21), GO (see § 371.7), or GLV (see § 371.10).

(b) *Shipments to redistribution points.* (1) Exportations may be made under this general license to a free zone or other redistribution point for redistribution to a destination not identified on the export documents provided that neither the redistribution point nor the destination to which the commodities are distributed is included in paragraph (a) (2) of this section, except that commodities listed in § 371.23 may be redistributed to Hong Kong.

(2) For exportations to redistribution points, the Declaration and the Bill of Lading covering the shipment must show, as the ultimate destination, the country from which distribution will be made followed by the words "For redistribution to other countries." In addition, both documents shall show in the commodity description item, the following statement:

None of this merchandise will be shipped to Macao, a Soviet Bloc destination, or a Communist-controlled area in the Far East, and none of these commodities except commodities listed in § 371.23 will be shipped to Hong Kong.

(c) *Government surplus agricultural commodities.* Persons making export shipments, under export sales transactions amounting to $100,000 or more, of agricultural and vegetable fiber commodities acquired directly or indirectly from U. S. Government stocks, shall file with Collector of Customs one additional copy of the Shipper's Export Declaration, and send one copy of the On-board Ocean Bill of Lading (for rail export shipments, one copy of the Railroad Bill of Lading) to the Bureau of· Foreign Commerce, Washington 25, D. C., Attention FC–1210. The additional copy of the Shipper's Export Declaration and the copy of the Bill of Lading shall bear the following notation in the upper right corner: "FC–1210." (See § 373.5 of this subchapter.)

2. Section 374.2 *Application procedure,* paragraph (c) *Submission of Form IT– or FC–375* is amended to read as follows:

(c) *Submission of Form IT– or FC–375*—(1) *Dollar limit (DL) project licenses*—(i) *Restricted commodities.* For the initial quarter, and thereafter for each successive calendar quarter, Form IT– or FC–375 (Materials Requirements List) must be submitted in duplicate for each commodity which is identified on the Positive List of Commodities by the letter "B" in the column headed "Commodity Lists." Related commodities on the Positive List having the same processing code and related commodity group number may be included on one set of Form IT– or FC–375. The commodity or related commodities must be described in terms of the Schedule B number, commodity description, and quantity in the unit of quantity shown for that commodity on the Positive List, as well as in terms of total dollar value. Commodities which do not have the same processing code and related commodity group number must be submitted on separate Forms IT– or FC–375. Each Form IT– or FC–375 shall indicate the full license number, including the symbol prefix (SP or DL) and division code symbol, of the project license to which it refers.

(ii) *Time of submission.* When specific time schedules are established for submission of applications covering particular commodities, the schedules must be observed in the submission of Form IT– or FC–375. In all other cases Form IT– or FC–375 must be submitted not later than 30 days prior to the calendar quarter in which the commodity will be exported. However, where a commodity is placed under restricted commodity control invalidating the license with respect to that commodity less than 30 days prior to a calendar quarter, Form IT– or FC–375 may be submitted immediately

NOTE: 1. *Statement of essentiality.* A statement of the essentiality of the particular commodity in relation to the project will be helpful in expediting action on the application.

2. *Time schedules.* The commodities for which Form IT– or FC–375 must be submitted during particular periods are set forth in Supplement 1 to Part 373, 'Time Schedules for Submission of Applications for Licenses To Export Certain Positive List Commodities.

(2) *Special project (SP) licenses*—(i) *Manner of submission.* For the initial quarter, and thereafter for each successive calendar quarter, a Form IT– or FC–375 must be submitted, in duplicate, for each commodity for which a validated license is required. Related commodities on the Positive List, that is, those having the same processing code and related commodity group number, may be included on one set of Form IT– or FC–375. Each Form IT– or FC–375 shall indicate the full license number, including the symbol prefix (SP or DL) and division code symbol, of the project license to which it refers. The commodity or related commodities must be described in terms of the Schedule B number, commodity description, and unit of quantity shown for that commodity on the Positive List, as well as in terms of total dollar value. Commodities which do not have the same processing code and related commodity group number must be submitted on separate Forms IT– or FC–375.

(ii) *Time of submission of firm requirements.* When specific time schedules are established for submission of applications covering particular commodities, such schedules must be observed in the submission of Form IT– or FC–375 covering quarterly firm requirements when so provided. In all other cases Form IT– or FC–375 must be submitted not later than 30 days prior to the calendar quarter in which the commodity will be exported.

NOTE: The commodities for which Form IT– or FC–375 must be submitted during particular periods are set forth in Supplement 1 to Part 373, Time Schedules for Submission of Applications for Licenses to Export Certain Positive List Commodities.

(3) *Special provisions.* The requirements of the special provisions set forth in Part 373 of this subchapter with respect to particular commodities must be fulfilled as a part of making application for the export of such commodities under a project license.

(Sec. 3, 63 Stat. 7, as amended; 50 U. S. C. App. 2023. E. O. 9630, 10 F. R. 12245, 3 CFR, 1945 Supp., E. O. 9919, 13 F. R. 59, 3 CFR, 1948 Supp.)

LORING K. MACY,
Director,
Bureau of Foreign Commerce.

[F. R. Doc. 55-8166; Filed, Oct. 7, 1955; 8:48 a. m.]

TITLE 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T. D. 53913]

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADE

REMISSION OR REFUND OF DUTIES ON VESSEL REPAIRS AND EQUIPMENT

Since the delegation was made to the collectors of customs by T. D. 51584 (11 F R. 14511) of the authority to remit or refund duties on repairs and equipment of vessels, it has been the position and intention of the Bureau of Customs and the Treasury Department that the delegation to the collectors has continued in effect, and no subsequent orders have been intended to be interpreted as revoking that delegation.

However, because of uncertainty and confusion that has resulted from the decision of the United States Customs Court in International Navigation Company Inc. v. United States, (1955) C .D. 1721, the Customs Regulations are being amended as set forth below for the purpose of reaffirming the delegation to the collectors.

Section 4.14 (j) is hereby amended by adding at the beginning thereof the following new sentence: "The authority under section 3115 of the Revised Statutes, as amended, to remit or refund duties is delegated to the several collectors of customs and their successors in office."

(R. S. 161, 251, 3114, as amended, 3115, as amended, sec. 624, 46 Stat. 759; 5 U. S. C. 22, 19 U. S. C. 257, 258, 1624)

[SEAL] RALPH KELLY,
Commissioner of Customs.

Approved: September 30, 1955.

DAVID W KENDALL,
Acting Secretary of the Treasury.

[F. R. Doc. 55-8168; Filed, Oct. 7, 1955; 8:49 a. m.]

[T. D. 53915]

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURES

ASSESSMENT AND COLLECTION OF CERTAIN CUSTOMS FEES

SEPTEMBER 30, 1955.

In order to provide that fees submitted with applications requesting:

(1) Recordation of a trademark, trade name, or copyright;

(2) Designation of a common carrier as a carrier of customs bonded merchandise;

(3) Establishment of a customs bonded warehouse;

(4) Issuance of a customs cartage or lighterage license; and

(5) Issuance of a customhouse broker's license

will no longer be refunded if the application is denied, and to provide that the fee collected for item (1) above, will be applicable to applications for the recordation of a renewal or change of ownership of a trademark or copyright, § 24.12 (a) of the Customs Regulations is amended to read as follows:

§ 24.12 *Customs fees; charges for storage.* (a) A table of the rates of fees prescribed by law or hereafter in this paragraph shall be kept posted in each collector's, surveyor's, and comptroller's office. When payment of such fee is received by any customs employee a receipt therefor shall be issued.

(1) A customs fee in the amount indicated shall be collected for each application for the following actions whether the action requested is granted or denied:

(i) Recording a trademark, trade name, or copyright; or recording a renewal or change of ownership of a trademark or copyright, $25. (See §§ 11.15, 11.16, and 11.19 of this chapter.)

(ii) Designating a common carrier as a carrier of customs bonded merchandise, $35. (See § 18.1 of this chapter.)

(iii) Establishment of a customs bonded warehouse, $50. (See § 19.2 of this chapter.)

(iv) Issuance of a customs cartage or lighterage license, $35. (See § 21.1 of this chapter.)

(v) Issuance of a customhouse broker's license, $100.

The fee in subdivision (iii) of this subparagraph shall be assessed and collected for an application requesting the initial establishment of a customs bonded warehouse or for the rebonding of a warehouse after its discontinuance. Such fee shall not be collected for action in connection with the discontinuance or alteration of a customs bonded warehouse or the reactivation of such a warehouse after its temporary suspension.

The fee in subdivision (iv) of this subparagraph shall be assessed and collected for an application requesting the initial issuance of a customs cartage or lighterage license or the issuance of a new license after the previous license has been canceled or revoked, but not for renewing such a license.

(2) Unless otherwise prescribed by law, a fee of 20 cents shall be collected for each official certification.

(R. S. 161, 251, sec. 624, 46 Stat. 759; 5 U. S. C. 22, 19 U. S. C. 66, 1624. Interprets or applies R. S. 2635, as amended, 2804, as amended, 4383, as amended, sec. 501, 65 Stat. 290; 5 U. S. C. 140, 19 U. S. C. 58, 59, 46 U. S. C. 383)

Notice of the proposed issuance of the foregoing amendments was published in the FEDERAL REGISTER on July 16, 1955 (20 F. R. 5099), pursuant to section 4 of the Administrative Procedure Act (5 U. S. C. 1003) No representations were received and the amendments set forth above are hereby adopted.

This amendment is not retroactive and shall be effective only on applications received on or after the effective date of this amendment.

This amendment shall become effective upon the expiration of 30 days after the date of publication in the FEDERAL REGISTER.

[SEAL] RALPH KELLY,
Commissioner of Customs.

Approved: September 30, 1955.

DAVID W. KENDALL,
Acting Secretary of the Treasury.

[F. R. Doc. 55-8170; Filed, Oct. 7, 1955; 8:49 a. m.]

TITLE 20—EMPLOYEES' BENEFITS

Chapter III—Bureau of Old-Age and Survivors Insurance, Social Security Administration, Department of Health, Education, and Welfare

[Regulations No. 4, Further Amended]

PART 404—FEDERAL OLD-AGE AND SURVIVORS INSURANCE (1950– ——)

FILING OF APPLICATIONS AND OTHER FORMS

Regulations No. 4, as amended (20 CFR, Cum. Supp., 404.1 et seq.) are further amended as follows:

1. Subpart G is amended to read as follows:

Subpart G—Filing of Applications and Other Forms

§ 404.601 *Meaning of terms.* For purposes of this subpart:

(a) Unless otherwise specified, the term "application" refers only to an application on a form prescribed in section 404.602, and includes an application for monthly benefits, lump-sum death payment, and recomputation of a primary insurance amount (see Subpart C of this part).

(b) The term "claimant" refers to the individual who is applying for monthly benefits, lump-sum death payment, or recomputation of a primary insurance

amount, and with respect to whom an application for such benefits, lump-sum death payment, or recomputation is filed or, as authorized by the provisions of this subpart, may be filed.

(c) Except as provided in §§ 404.611, 404.613, and 404.614, an individual has not "filed an application" for purposes of section 202 of the Act or for purposes of recomputation of a primary insurance amount until an application on a form prescribed in § 404.602 has been filed in accordance with the regulations in this subpart.

§ 404.602 *Prescribed application forms.* Applications shall be made as provided in the regulations in this subpart and on such forms and in accordance with such instructions (printed thereon or attached thereto) as are prescribed by the Administration. The prescribed forms may be obtained from any office of the Bureau.

§ 404.603 *Execution of applications.* Where a claimant has attained the age of 18 and is mentally competent, the application shall be executed by him. In all other situations, the Administration shall determine who is the proper party to execute the application. Such determinations will be made in accordance with the following general rules:

(a) If the claimant (regardless of his age) has a legally appointed guardian, committee, or other legal representative, the application may be executed by such guardian, committee, or representative. For authority to file an application on behalf of an estate which is equitably entitled, see § 404.341.

(b) If the claimant is between the ages of 16 and 18, is mentally competent, has no guardian, committee, or other legal representative, and is not in the care of any person, such claimant may execute the application upon filing a statement on the prescribed form, indicating capacity to act on his own behalf.

(c) If the claimant is mentally incompetent (regardless of his age) or is mentally competent, but has not attained the age of 18, the application may be executed by the person who has the claimant in his care.

Where the proper person to execute the application is an institution, the manager or principal officer of such institution may execute such application. For good cause shown and for purposes of paragraphs (a) (b) or (c) of this section, the Administration may accept an application executed by person other than one described above, but only if the claimant (other than an equitably entitled estate) is alive when the application is executed by such other person.

§ 404.604 *Evidence of authority to execute an application on behalf of another* Where the application is executed by a person other than the claimant, such person shall, at the time of filing the application, or within a reasonable time thereafter, file evidence of his authority to execute the application on behalf of such claimant in accordance with the following rules:

(a) If the person executing the application is the legally appointed guardian, committee, or other legal representative of such claimant, the evidence shall be a certificate executed by the proper official of the court of appointment.

(b) If the person executing the application is not such a legal representative, the evidence shall be a statement describing his relationship to the claimant and, except where the application is executed by a parent on behalf of a child with whom he is living, the extent to which he has the care of such claimant, or his position as an officer, of the institution of which such claimant is an inmate. The Administration may, at any time, require additional evidence to establish the authority of any such person.

§ 404.605 *Place of filing applications.* Applications shall be filed (in person, by mail, or otherwise) at an office of the Bureau, or with an employee of the Administration who has been duly authorized to receive such applications at a place other than such an office; or, in cases of claimants who are not residing in the United States, such applications may be filed at an office maintained outside the United States by the United States Foreign Service.

§ 404.606 *Filing of application for monthly benefits in advance of entitlement to such benefits.* An application for monthly benefits (but not including an application for recomputation of a primary insurance amount) will be accepted as an application for the purposes of title II of the act if it is filed not more than 3 months prior to the first month for which the claimant could become entitled to such benefits and any application filed within such 3-month period shall be deemed filed in such first month; except that this section shall not apply where any of the provisions in this part become effective on the basis of an application filed after a specific date (see, for example, § 404.322 (f) and § 404.107 (b))

§ 404.607 *Filing of application for monthly benefits after first month in which individual can become entitled to such benefits.* An application for monthly benefits (but not including an application for recomputation of a primary insurance amount) filed at any time after the first month for which the claimant could have been entitled to such benefits will be accepted as an application for monthly benefits for the purposes of title II of the act, beginning with any of the following:

(a) 6 months immediately preceding the month in which it is filed, if such application is filed prior to September 1954, or

(b) 12 months immediately preceding the month in which it is filed, if such application is filed after August 1954, except that in such a case the application cannot be accepted as an application for any month prior to February 1954. For purposes of determining whether the individual has met all conditions of eligibility in such prior months, the application shall have the same effect as though it has been filed in such months.

EXAMPLE 1: H is entitled to an old-age insurance benefit. W, his wife, will be 65 in May 1955. If she files her application in the period June 1955 through May 1956 she may become entitled to wife's insurance benefits beginning with May 1955, but if she files in June 1956, June 1955 is the first month for which she could become entitled.

If W is living with H in May 1955, she will be entitled to benefits beginning with that month if she files application in the period June 1955 through May 1956, even though she is not living with H in the month in which she files. For the purpose of determining whether she has met the conditions of entitlement, her application will have the same effect as though it had been filed in May 1955. Likewise, if she is living with H in June 1955 she will be entitled to benefits beginning with that month if she files application in the period July 1955 through June 1956, even though she is not living with him in the month in which she files.

§ 404.608 *When an application is considered to have been filed.* Except as otherwise provided in this subpart, an application is considered to have been filed only as of the date the application is received at an office of the Bureau or by an employee of the Administration authorized to receive it or, in cases of claimants who are not residing in the United States, at an office maintained outside the United States, by the United States Foreign Service. If the application is deposited in and transmitted by the United States mail and the fixing of the date of delivery as the date of filing would result in a loss or impairment of benefit rights, the application will be considered to have been received as of the date of mailing. The date appearing on the postmark (when available and legible) shall be prima facie evidence of the date of mailing.

§ 404.609 *Time of filing applications for lump sums.* An application for a lump-sum death payment must be filed within 2 years after the date of the death of the individual upon the basis of whose wages and self-employment income such lump sum is claimed (see § 404.338 (b)) with the following exceptions:

(a) As provided in § 404.612;

(b) Where the death of such individual occurred outside the forty-eight States and the District of Columbia after August 1950, and prior to April 1956, while he was in the active military or naval service of the United States, and where he is returned to any of such States, the District of Columbia, Alaska, Hawaii, Puerto Rico, or the Virgin Islands for interment or reinterment, such application may be filed prior to the expiration of 2 years after the date of such interment or reinterment, but only if it is filed by or on behalf of the person equitably entitled to the lump-sum death payment (see § 404.340)

§ 404.610 *Execution and filing of requests and notices.* Except as otherwise provided in this subpart, any request for a determination or decision relating to a person's right to monthly benefits, a lump-sum death payment, or a recomputation of a primary insurance amount, or relating to the revision of records of earnings, or any notice, provided for by the regulations in this part, shall be in writing and shall be signed by the person authorized to execute an applica-

tion under § 404.603 of this subpart. Such requests and notices shall be filed at an office of the Bureau or with an employee of the Administration who is authorized to receive them, or, in cases of persons who are not residing in the United States, they may be filed at an office maintained outside the United States by the United States Foreign Service.

§ 404.611 *Applications filed with the Railroad Retirement Board.* Notwithstanding the provisions of the regulations in this part restricting the place for filing an application, any application filed with the Railroad Retirement Board on its prescribed forms

(a) On or after October 1, 1946, by a survivor of a deceased insured individual for an insurance annuity or lump-sum payment under section 5 of the Railroad Retirement Act (as defined in § 404.1001 (t)) based on the death of such insured individual, or

(b) On or after August 1, 1951, by an individual who at the time of filing such application had less than 10 years of service in the railroad industry (as defined in § 404.1403) by his spouse, or by or on behalf of his child,

shall be deemed to be an application under title II of the act, and shall be deemed filed with the Administration on the date as of which the Railroad Retirement Board certifies that such application is deemed filed with that agency.

§ 404.612 *Extensions of filing periods by Soldiers' and Sailors' Civil Relief Act of 1940—(a) Exclusion of periods of military service.* Pursuant to the Soldiers' and Sailors' Civil Relief Act of 1940, in computing the periods allowed for the filing of an application for lump-sum death payment under section 202 (i) (see § 404.338) filing of proof of a husband's, or widower's, or parent's support under section 202 (c) (f) and (h) (see §§ 404.309, 404.322, and 404.328), filing of a request for revision of records of earnings under section 205 (c) (see § 404.810), filing of a request for reconsideration (see Subpart J) filing of a request for a hearing (see Subpart J) and filing of a request for review (see Subpart J) by an individual in military service or by a surviving civilian relative of such individual in military service meeting the test of wife, husband, widow, widower, child, or parent as defined in the act, there shall not be included that portion of the period of his military service (as defined in the Soldiers' and Sailors' Civil Relief Act of 1940) falling within the period so to be computed.

(b) *Commencement of period of military service.* The period of military service referred to in paragraph (a) of this section with the effective date of the Soldiers' and Sailors' Civil Relief Act of 1940 (October 17, 1940) or the date of the entrance into active military service of the individual, whichever is later.

(c) *Termination of period of military service.* The period of military service, referred to in paragraph (a) of this section, ends upon the date the Soldiers' and Sailors' Civil Relief Act of 1940 ceases to be in force or the date of the individual's death or discharge from service, whichever is earlier. If the individual was reported missing and is subsequently found (actually or presumptively) to have died, then the period of military service shall end upon

(1) The date such death is reported to or found by the proper service department, or

(2) The date such finding is made by a court of competent jurisdiction, or

(3) 6 months after the Soldiers' and Sailors' Civil Relief Act of 1940 ceases to be in force, whichever date is earliest. For the purposes of this section, the Soldiers' and Sailors' Civil Relief Act will cease to be in force when it is repealed or otherwise terminated by a subsequent act of the Congress.

(d) *Definition of "individual in military service."* The term "individual in military service" as used in this subpart shall include members of the Army of the United States, the United States Navy, the United States Air Force, the Marine Corps, the Coast Guard, and all officers of the Public Health Service detailed by proper authority for duty either with the Army or Navy.

§ 404.613 *Written statement considered an application on a prescribed form—(a) Written statement filed by claimant.* Where a claimant files with the Bureau (or in the case of a claimant who is not residing in the United States, with an office maintained outside the United States by a United States Foreign Service Office) a written statement which indicates an intention to claim monthly benefits, a lump-sum death payment, or a recomputation of a primary insurance amount, and such statement bears his signature or his mark properly witnessed, such claimant shall, unless he otherwise indicates, be deemed to have "filed an application" for purposes of section 202 of the act or a recomputation of a primary insurance amount. No initial determination, as required by § 404.901 (§ 403.706 (a) of this chapter, Regulations No. 3), shall be made by the Bureau with respect to such application until the claimant files an application on a form prescribed in § 404.602. The Bureau shall notify the claimant in writing that an initial determination will be made with respect thereto only if a prescribed application form is filed within 6 months from the date of such notification. If the claimant does not file such prescribed application form within such 6-month period, the claimant shall be deemed to have indicated that the filing of such written statement is not to be considered the filing of an application for purposes of section 202 of the act or a recomputation of a primary insurance amount.

(b) *Written statement filed by person other than claimant.* The provisions of paragraph (a) of this section shall apply to a written statement filed by an individual on behalf of the claimant if:

(1) Such statement meets the conditions of such paragraph (a) and contains the signature of such individual or his mark properly witnessed,

(2) The individual is the spouse of the claimant or he is the proper party to execute an application on a prescribed form on behalf of the claimant, as determined by § 404.603, and

(3) The claimant (other than an equitably entitled estate) is alive at the time such application on a prescribed form (§ 404.602) is executed.

§ 404.614 *Written statement requesting annuity or lump-sum payment from Railroad Retirement Board considered an application on a prescribed form.* Where a claimant files with the Railroad Retirement Board a written statement which indicates an intention to claim any payment under the Railroad Retirement Act and such statement bears his signature or his mark properly witnessed and no application is filed with the Railroad Retirement Board on one of its prescribed forms, such statement shall, after it is transmitted to the Bureau by the Railroad Retirement Board, be considered a statement filed with the Bureau. The provisions of § 404.613 shall thereafter apply to such statement. Where such statement is filed on behalf of a claimant, the provisions of § 404.613 shall apply only if the conditions of paragraph (b) of § 404.613 are satisfied.

§ 404.615 *Withdrawal of applications and requests for revision of records of earnings.* An application or a request for revision of records of earnings of the Administration filed by a claimant or on his behalf by a person authorized to execute an application under § 404.603 may be withdrawn only if the claimant or such other person files a written notice of such withdrawal with the Bureau and such notice is filed prior to the Bureau's determination upon such application or request. Thereafter, further action will be taken only upon the filing of a new application or request.

2. The appendix to Subpart G of Part 404 of Regulations No. 4 is repealed.

3. Section 404.901 is amended to read as follows:

§ 404.901 *Procedures, payment of benefits, and representation of parties.* The provisions contained in §§ 403.705–403.713 of this chapter (Regulations No. 3) and the appendix to Subpart G of Part 403 of this chapter (Regulations No. 3) to the extent that they apply to the Social Security Act, as amended in 1950 and subsequent years shall, except for the provisions in such appendix relating to "informal disallowances," govern this subpart.

Effective date. All provisions of the foregoing amendments shall become effective as of the date filed for publication in the FEDERAL REGISTER; except that § 403.701 (k) of this chapter (Regulations No. 3), to the extent that it is incorporated in Subpart G of Part 404 of Regulations No. 4, shall remain effective for 90 days after the date these amendments are filed for publication in the FEDERAL REGISTER provided an application on a form prescribed in § 404.602 is filed within such 90-day period.

(Sec. 205, 49 Stat. 624, as amended, sec. 1102, 49 Stat. 647, sec. 218, 64 Stat. 514; 42 U. S. C. 405, 418, 1302)

[SEAL] C. I. SCHOTTLAND,
Commissioner of Social Security.

Approved: October 5, 1955.

M. B. FOLSOM,
Secretary.

[F. R. Doc. 55-8165; Filed, Oct. 7, 1955; 8:48 a. m.]

TITLE 26—INTERNAL REVENUE, 1954

Chapter I—Internal Revenue Service, Department of the Treasury

Subchapter A—Income Tax

[T. D. 6148]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

INVOLUNTARY LIQUIDATION OF LIFO INVENTORIES

On July 12, 1955, notice of proposed rule making regarding the regulations for taxable years ending after June 30, 1950, and before January 1, 1955, under section 1321 (relating to involuntary liquidation of lifo inventories) of the Internal Revenue Code of 1954, was published in the FEDERAL REGISTER (20 F. R. 4956) All comments regarding the proposed regulations having been considered and no change having been found necessary, the regulations as so published are hereby adopted as set forth below.

[SEAL] JUSTIN F WINKLE,
Acting Commissioner of Internal Revenue.

Approved: October 4, 1955.

H. CHAPMAN ROSE,
Acting Secretary of the Treasury.

The following regulations are hereby promulgated under section 1321 of the Internal Revenue Code of 1954.

§ 1.1321 *Statutory provisions; involuntary liquidation of lifo inventories.*

SEC. 1321. *Involuntary liquidation of lifo inventories*—(a) *Adjustment of taxable income and resulting tax.* If, for any taxable year ending after June 30, 1950, and before January 1, 1955, the closing inventory of a taxpayer inventorying goods under the method provided in section 22 (d) of the Internal Revenue Code of 1939 reflects a decrease from the opening inventory of such goods for such year, and if the taxpayer elects, at such time and in such manner and subject to such regulations as the Secretary or his delegate may prescribe, to have this section apply, and if it is established to the satisfaction of the Secretary or his delegate, in accordance with such regulations, that such decrease is attributable to the involuntary liquidation of such inventory as defined in section 22 (d) (6) (B) of the Internal Revenue Code of 1939 (as modified by subsection (b) of this section), and if the closing inventory of a subsequent taxable year, ending before January 1, 1956, reflects a replacement, in whole or in part, of the goods so previously liquidated, then the taxable income of the taxpayer otherwise determined for the year of such involuntary liquidation shall be increased by an amount equal to the excess, if any, of the aggregate cost of such goods reflected in the opening inventory of the year of involuntary liquidation over the aggregate replacement cost, or decreased by an amount equal to the excess, if any, of the aggregate replacement cost of such goods over the aggregate cost thereof reflected in the opening inventory of the year of the involuntary liquidation. The taxes imposed by this chapter (and by chapters 1 and 2 of the Internal Revenue Code of 1939) for the year of such liquidation, for preceding taxable years, and for all taxable years intervening between the year of liquidation and the year of replacement shall be redetermined, giving effect to such adjustments. Any increase in such taxes resulting from such adjustments shall be assessed and collected as a deficiency but without interest, and any overpayment so resulting shall be credited or refunded to the taxpayer without interest.

(b) *Definitions.* For purposes of this section, the term "involuntary liquidation" shall have the meaning given to it in section 22 (d) (6) (B) of the Internal Revenue Code of 1939 and, in addition, it shall mean a failure, as referred to in that section, on the part of the taxpayer due, directly and exclusively, to disruption of normal trade relations between countries. For purposes of this section, the words "enemy" and "war" as used in such section 22 (d) (6) (B), shall be interpreted, pursuant to regulations prescribed by the Secretary or his delegate, in such a way as to apply to circumstances, occurrences and conditions, lacking a state of war, which are similar, by reason of a state of national preparedness, to those which would exist under a state of war.

(c) *Special rules.* Subparagraphs (C) and (E) of section 22 (d) (6) of the Internal Revenue Code of 1939, to the extent that they refer to any taxpayer subject to subparagraph (A) of such section or to the adjustments specified in or resulting from the effect of subparagraph (A) of such section, shall apply to a taxpayer subject to this section or to adjustments specified in or resulting from the effect of this section as though they specifically referred to this section. If, for any taxable year ending after June 30, 1950, and before January 1, 1953, subparagraph (C) of such section 22 (d) (6) applies with respect to involuntary liquidations of goods of the same class subject to both subparagraph (A) of such section and to this section, the involuntary liquidations of such goods subject to this section shall be considered for the purpose of such subparagraph (C) as having occurred before the involuntary liquidations of such goods subject to subparagraph (A) of such section 22 (d) (6). For the purpose of this subsection, and with respect to the taxable years covered by this section, the reference in subparagraph (E) of such section 22 (d) (6) to section 734 (d) shall be taken as a reference to section 452 (d) of the Internal Revenue Code of 1939, and, with respect to any taxable year to which any provision of the Internal Revenue Code of 1939 may not be applicable, references in such subparagraph to such provision shall, where applicable, be deemed a reference to the corresponding provision of the Internal Revenue Code of 1954.

§ 1.1321–1 *Involuntary liquidation of lifo inventories.* (a) Section 22 (d) (6) (B) of the Internal Revenue Code of 1939 provides as follows:

(B) *Definition of involuntary liquidation.* The term "involuntary liquidation" as used in this paragraph, means the sale or other disposition of goods inventoried under the method described in this subsection, either voluntary or involuntary, coupled with a failure on the part of the taxpayer to purchase, manufacture, or otherwise produce and have on hand at the close of the taxable year in which such sale or other disposition occurred such goods as would, if on hand at the close of such taxable year, be subject to the application of the provisions of this subsection, if such failure on the part of the taxpayer is due, directly and exclusively, (i) to enemy capture or control of sources of limited foreign supply; (ii) to shipping or other transportation shortages; (iii) to material shortages resulting from priorities or allocations; (iv) to labor shortages; or (v) to other prevailing war conditions beyond the control of the taxpayer.

(b) (1) If, during any taxable year ending after June 30, 1950, and before January 1, 1955, the disruption of normal trade relations between countries, or one or more of the conditions attributable to a state of national preparedness and beyond the control of the taxpayer, as prescribed by section 22 (d) (6) (B) of the Internal Revenue Code of 1939, as modified by section 1321 (b) of the Internal Revenue Code of 1954, should render it impossible during such period for a taxpayer using the last-in first-out inventory method to have on hand at the close of the taxable year a stock of merchandise in kind and description like that included in the opening inventory for the year, or in a quantity equal to that of the opening inventory, the resulting inventory decrease for the year will be regarded, at the election of the taxpayer, as reflecting an involuntary liquidation subject to replacement. If the taxpayer notifies the Commissioner within the period prescribed below that he intends to effect a replacement of the liquidated stock, in whole or in part, and that he desires to have applied in his case the involuntary liquidation and replacement provisions of section 1321, and if he establishes to the satisfaction of the Commissioner the involuntary character of the liquidation to which his stock has been subjected, effect shall be given, when replacement has been made, in whole or in part, but only to the extent made in taxable years ending before January 1, 1956, to an adjustment of taxable income for the year of liquidation in the amount of the difference between the replacement costs incurred and the original inventory cost of the liquidated base stock inventory that is replaced. The notification is to be given within 6 months after the filing by the taxpayer of his income tax return for the year of the liquidation. However, if the liquidation occurs in a taxable year ending after December 31, 1953, the notification may be given at any time within 3 months after the promulgation of regulations under section 1321, or prior to the expiration of the 6-month period following the filing of the return, whichever expiration date later occurs.

(2) If the replacement costs exceed such inventory costs, the taxable income of the taxpayer otherwise computed for the year of liquidation shall be reduced by an amount equal to such excess. If the replacement costs are less than the inventory costs, taxable income otherwise computed for the year of liquidation shall be increased to the extent of such difference. Any deficiency in the income or excess profits tax of the taxpayer, or any overpayment of such taxes, attributable to such adjustment shall be assessed and collected or credited or refunded to the taxpayer without interest.

(c) (1) A failure on the part of the taxpayer to have on hand in his closing inventory for the taxable year merchandise of the kind, description, and quantity of that reflected in his opening inventory will be considered as an involuntary liquidation only if it is established to the satisfaction of the Commissioner that such failure is due wholly to his inability to purchase, manufacture, or otherwise produce and procure delivery of such merchandise during the taxable year of liquidation by reason of the disruption of normal trade relations between countries or by reason of certain war conditions, described in section 22 (d) (6) (B) of the Internal Revenue Code of 1939, as modified by section 1321 (b) Such war conditions are (i) shortages in the source of foreign supply by reason of capture or control by an enemy· (ii) shipping or other transportation shortages; (iii) material shortages resulting from priorities or allocations; (iv) labor shortages; and (v) similar war conditions beyond the control of the taxpayer. For the purpose of the preceding sentence, the words "enemy" and "war" shall be interpreted to apply to circumstances, occurrences, and conditions lacking a state of war, which are similar, by reason of a state of national preparedness, to those which would exist under a state of war.

(2) The various directives, orders, regulations, and allotments issued by the Federal Government in connection with national preparedness are among such circumstances and conditions which might be recognized as effecting an involuntary liquidation under this section. Likewise, a voluntary compliance with a request of an authorized representative of the Federal Government made upon an industry or an important segment thereof, or a voluntary allocation of materials by an industry or important segment thereof sanctioned by the Federal Government, if made in connection with the national preparedness program, might be considered as such a circumstance or condition. Similarly, so much of an inventory decrease as is directly and exclusively attributable to the Federal Government's stockpiling program for periods during which an item is not subject to allotment shall also be considered as subject to the provisions of section 1321. Thus, so much of an inventory decrease as is due wholly to the effect of directives, orders, regulations, or allotments issued pursuant to the Defense Production Act of 1950, as amended (50 U. S. C. App. 2061) or to any other circumstance or condition which is solely dependent upon other action taken by the Federal Government in furtherance of the national preparedness program, ordinarily shall be considered as an involuntary liquidation under section 1321 and this section; however, to the extent that such a decrease is due to the disposition of goods acquired in violation of such directives, orders, regulations, or allotments, such decrease shall not be considered as such an involuntary liquidation. An inventory decrease due directly and exclusively to a disruption of normal trade relations between countries shall be considered as an involuntary liquidation subject to the rules and requirements prescribed in this section, including the requirement that the taxpayer establish to the satisfaction of the Commissioner the cause of the involuntary liquidation. A disruption of normal trade relations between countries may be reflected by unusual export limitations imposed by a foreign government, by unusual exchange restrictions, or by other unusual circumstances or conditions beyond the control of the taxpayer.

(3) A voluntary shift by the taxpayer, in the exercise of business judgment, to merchandise of a different character, description, or use, or to merchandise processed out of a substantially different kind of raw materials while raw materials of the type originally used are still available will not be considered as an involuntary liquidation notwithstanding the fact that such a shift in merchandise stocked was prompted by a shifting market demand attributable to the above conditions. The term "involuntary liquidation" presupposes a physical inability to maintain a normal inventory as distinguished from a financial or business disinclination on the part of the taxpayer to do so.

(d) If the taxpayer would have the involuntary liquidation and replacement provisions applicable with respect to any inventory decrease, he must so elect within the time prescribed by this section. In making such election, the taxpayer shall attach to his return and make a part thereof, or he shall furnish separately to the Commissioner, a statement setting forth the following matters: (1) The desire of the taxpayer to invoke the involuntary liquidation and replacement provisions; (2) a detailed list or other identifying description of the items of merchandise claimed to have been subjected to involuntary liquidation and the extent to which replacement is intended; (3) the circumstances relied upon as rendering the taxpayer unable to maintain throughout the taxable year a normal inventory of the items involved, including evidence of the applicable inventory control figures for the beginning and the close of the taxable year submitted to the appropriate Federal agency in control of defense production (or if none, a statement to that effect) allotments applied for, allotments received, and reason for failure to place allotments received; (4) detailed proof of such circumstances to the extent that they may not be the subject-matter of common knowledge; (5) a full description of what efforts were made on the part of the taxpayer to effect replacement during the taxable year and the result of such efforts; and (6) in the case of an election made pursuant to an extension of time granted by the Commissioner, the circumstances relied upon as justifying the election at such time, together with a disclosure of the extent, if any, to which replacements have already been made.

(e) The election of the taxpayer to treat an involuntary decrease of inventory as subject to the replacement adjustments is to be exercised separately for each taxable year reflecting such a decrease and the election, once exercised with respect to a given year, shall be irrevocable with respect to the particular decrease involved and its replacement, and shall be binding for the year of liquidation, the year of replacement, and all prior, intervening, and subsequent years to the extent that such prior, intervening, and subsequent years are affected by the adjustments authorized. The ultimate replacement and the resulting adjustment for the year of liquidation may have consequences, among others, in the earnings and profits of intervening years and the inventory accounts of subsequent years. They may have consequences in the prior years by reason of adjustments in net operating loss or unused excess profits credit carrybacks, and in intervening and subsequent taxable years by reason of adjustments in carryovers. Adjustments are to be made for the several years affected consistent with the adjustments made for the year of liquidation. Detailed records shall be maintained such as will enable the Commissioner, in his examination of the taxpayer's return for the year of replacement, readily to verify the extent of the inventory decrease claimed to be involuntary in character and the facts upon which such claim is based, all subsequent inventory increases and decreases, and all other facts material to the replacement adjustment authorized. For taxable years subject to the Internal Revenue Code of 1939, an election under § 39.22 (d)–7 (e) of Regulations 118 or § 29.22 (d)–7 of Regulations 111 to have the involuntary liquidation and replacement provisions of section 22 (d) (6) of the Internal Revenue Code of 1939 apply with respect to any inventory decrease for taxable years to which such section applies, shall be given the same effect as if such election had been made under this section. (See section 7807 (b) (2).)

(f) Notwithstanding the ultimate purchase price or the cost of production ultimately incurred by the taxpayer in effecting replacement of a stock involuntarily liquidated, the merchandise reflecting the replacement shall be taken into purchases and included in the closing inventory for the year of replacement, and shall be included in the inventories of subsequent taxable years, at the inventory cost figure of the merchandise replaced.

(g) The goods reflected in any inventory increase in a year subsequent to a year of involuntary liquidation, to the extent that they constitute items of the kind and description liquidated in prior years, whether or not in a year of involuntary liquidation, shall be deemed, in the order of their acquisition, as having been acquired by the taxpayer in replacement of like goods most recently liquidated and not previously replaced. In a case involving involuntary liquidations of goods of the same class subject to the provisions of both section 22 (d) (6) (A) of the Internal Revenue Code of 1939 and section 1321 of the Internal Revenue Code of 1954, the involuntary liquidations of such goods subject to the provisions of section 1321 shall, for the purpose of replacements made in taxable years ending before January 1, 1953, be considered as having occurred prior to the involuntary liquidations of such goods subject to the provisions of sec-

tion 22 (d) (6) (A) of the Internal Revenue Code of 1939. To the extent that the items of increase are allocated to items liquidated voluntarily, no adjustment will be required or permitted. Such replacement merchandise will be carried in the inventory at its actual cost of acquisition. To the extent that replacements are allocated to items involuntarily liquidated, however, the provisions of this section shall apply, both with respect to adjustments for the year of liquidation and other taxable years affected and with respect to inventory computations for the year of replacement and all subsequent taxable years.

(h) In some cases it may appear that, at the time of the filing of the income tax return for the year of replacement, or within three years thereafter, an adjustment with respect to the income or excess profits taxes for the year of the involuntary liquidation, or for some prior, intervening, or subsequent taxable year, is prevented by the running of the statute of limitations, by the execution of a closing agreement, by virtue of a court decision which has become final, or by reason of some other provision or rule of law other than section 7122 (relating to compromises) and other than the inventory replacement provisions. The adjustments provided for in connection with the involuntary liquidation and replacement of inventory shall nevertheless be made, but only if, within a period of three years after the date of the filing of the income tax return for the year of replacement, a notice of deficiency is mailed or a claim for refund is filed. No credit or refund will be allowed under such circumstances, whether within or without such three-year period, in the absence of a claim for refund duly filed; nor will a resulting deficiency be assessed or collected under section 6213 (d) relating to waivers of restrictions. The issuance of the statutory notice of deficiency or the filing of a claim for refund are statutory conditions upon which depend the provisions of section 22 (d) (6) (E) of the Internal Revenue Code of 1939, referred to in section 1321 (c) of the Internal Revenue Code of 1954. The adjustment authorized by section 22 (d) (6) (E) of the Internal Revenue Code of 1939 is limited further to the tax attributable solely to the replacement adjustments. The amount of the adjustment shall be computed by reference to the amount of the tax previously determined, and without regard to factors affecting the taxable year involved to which no effect was given in such prior determination. The tax previously determined shall be ascertained in accordance with the principles stated in section 452 (d) of the Internal Revenue Code of 1939. Any deficiency paid or any overpayment credited or refunded under these circumstances shall not be subject to recovery on a claim for refund or a suit for the recovery of an erroneous refund in any case in which such claim or suit is based upon factors other than those giving rise to the adjustments made.

§ 1.1321–2 *Liquidation and replacement of lifo inventories by acquiring corporations.* For additional rules in the case of certain corporate acquisitions referred to in section 381 (a) see section 381 (c) (5) and the regulations thereunder.

(Sec. 7805, 68A Stat. 917; 26 U. S. C. 7805. Interpret or apply sec. 1321, 68A Stat. 342; 26 U. S. C. 1321)

[F. R. Doc. 55–8173; Filed, Oct. 7, 1955; 8:49 a. m.]

Subchapter E—Alcohol, Tobacco, and Other Excise Taxes

PART 280—DEALERS IN TOBACCO MATERIALS

On August 2, 1955, a notice of proposed rulemaking with respect to regulations designated as Part 280 of Title 26 (1954) of the Code of Federal Regulations was published in the FEDERAL REGISTER (20 F. R. 5497) The purposes of the proposal were to implement the Internal Revenue Code of 1954, which necessitated the issuance of new regulations, and to supersede 26 CFR (1939) Part 140, Subpart C, "Sale of Leaf Tobacco by a Farmer or Grower of Tobacco and by a Tobacco Growers' Cooperative Association," and Subpart D, "Dealers in Leaf Tobacco." No data, views, or arguments pertaining thereto having been received during the 15 days from the date of publication of said notice, the regulations so published are hereby adopted as set forth below, subject to the following changes:

PARAGRAPH 1. The preamble is amended by adding a new paragraph 3.

PAR. 2. Section 280.85 is amended by striking therefrom the word "as" after the words "corporation operating"

PAR. 3. Section 280.89 is amended by inserting in the proviso of the second sentence which begins, "The application shall be supported" the phrase " for a stated period," after the word "authorize"

PAR. 4. Section 280.102 is amended by striking therefrom the first sentence and inserting in lieu thereof new material.

PAR. 5. Section 280.121 is amended by striking therefrom the second, third, and fourth sentences, which begin, "Before such tobacco" "The dealer shall", and "All copies of the applicable form", respectively, and adding in lieu thereof the following new sentences: "Before such tobacco materials are released to him, the dealer shall prepare and furnish to the collector of customs having custody of the tobacco materials, a notice of release of tobacco materials, Form 2146. Upon release of the tobacco materials, the collector of customs shall complete the form as to date of release, signature, and title, and shall return one copy to the dealer, retain one copy for his records, and transmit one copy to the assistant regional commissioner shown thereon."

[SEAL] T. COLEMAN ANDREWS,
Commissioner of Internal Revenue.

Approved: October 4, 1955.

H. CHAPMAN ROSE,
Acting Secretary of the Treasury.

Preamble. 1. These regulations, 26 CFR Part 280, "Dealers in Tobacco Materials," supersede 26 CFR (1939) Part 140, Subpart C, "Sale of Leaf Tobacco by a Farmer or Grower of Tobacco and by a Tobacco Growers' Cooperative Association," and Subpart D, "Dealers in Leaf Tobacco," and are promulgated in order to implement the Internal Revenue Code of 1954.

2. These regulations shall not affect any act done, or any liability or right accruing or accrued, or any suit or proceeding had or commenced, before the effective date of these regulations.

3. The regulations in this part shall be effective on the date of publication in the FEDERAL REGISTER. These regulations are necessary for the enforcement of the applicable provisions of the Internal Revenue Code of 1954, effective January 1, 1955. It is hereby found that it is contrary to the public interest to issue these regulations subject to the effective date limitation of section 4 (c) of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C. 1003 (c))

Subpart A—Scope of Regulations

Subpart B—Definitions

Subpart C—General

Subpart D—Persons Exempt as Dealers in Tobacco Materials

Subpart E—Qualification Requirements

AUTHORITY: §§ 280.1 to 280.141 issued under 68A Stat. 917; 26 U. S. C. 7805. Statutory provisions interpreted or applied are cited to text in parentheses.

SUBPART A—SCOPE OF REGULATIONS

§ 280.1 *Dealers in tobacco materials.* This part contains the regulations governing the sale, shipment, or delivery of tobacco materials by dealers in tobacco materials, and the qualification of, maintenance of records by, and operations of such dealers.

§ 280.2 *Forms prescribed.* The Director, Alcohol and Tobacco Tax Division, is authorized to prescribe all forms required by this part, including bonds, applications, and permits. Information called for thereon shall be furnished in accordance with the instructions on the forms or issued in respect thereto.

SUBPART B—DEFINITIONS

§ 280.10 *Meaning of terms.* The terms used in this part shall have the meanings ascribed in this subpart, unless the context otherwise indicates.

§ 280.11 *Assistant regional commissioner* "Assistant regional commissioner" shall mean the Assistant Regional Commissioner, Alcohol and Tobacco Tax, who is responsible to and functions under the direction and supervision of the Regional Commissioner.

§ 280.12 *Black Fat.* "Black Fat" shall mean tobacco which is normally treated with oil under pressure and results in black tobacco, and shall include all tobacco similarly treated and referred to by such other terms as Black Horse, etc.

§ 280.13 *Clippings.* "Clippings" shall mean the tobacco which is clipped or cut off the ends of cigars in the manufacture thereof.

§ 280.14 *Commissioner* "Commissioner" shall mean the Commissioner of Internal Revenue.

§ 280.15 *Cuttings.* "Cuttings" shall mean the tobacco remaining after the binders and wrappers for cigars are cut out of the leaf.

§ 280.16 *Dealer in tobacco materials.* "Dealer in tobacco materials" shall mean every person who handles tobacco materials for sale, shipment, or delivery solely to another qualified dealer in such materials, to a qualified manufacturer of tobacco products, or to a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States. Dealer in tobacco materials shall include every person who produces Perique or Black Fat for sale, shipment, or delivery, in accordance with this part. Dealer in tobacco materials shall not include (a) an operator of a warehouse who stores tobacco materials solely for a dealer in tobacco materials, for a manufacturer of tobacco products, for a farmer or grower of tobacco, or for a bona fide association of farmers or growers of tobacco; or (b) a farmer or grower of tobacco who sells leaf tobacco of his own growth or raising, or a bona fide association of farmers or growers of tobacco which sells only leaf tobacco grown by farmer or grower members, if the tobacco so sold is in the condition as cured on the farm.

§ 280.17 *Director, Alcohol and Tobacco Tax Division.* "Director, Alcohol and Tobacco Tax Division," shall mean the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Treasury Department, Washington, D. C.

§ 280.18 *Establishment.* "Establishment" shall mean the premises of a dealer in tobacco materials in which he carries on such business.

§ 280.19 *Inclusive language.* Words in the plural form shall include the singular, and vice versa, and words in the masculine gender shall include the feminine, partnerships, associations, companies, corporations, estates, and trusts.

§ 280.20 *I. R. C.* "I. R. C." shall mean the Internal Revenue Code of 1954.

§ 280.21 *Leaf tobacco.* "Leaf tobacco" shall mean—

(a) Unstemmed—tobacco from which the stem or mid-rib has not been removed, and

(b) Stemmed—tobacco from which the stem or mid-rib has been removed, also known as "strips."

§ 280.22 *Manufactured tobacco.* "Manufactured tobacco" shall mean all tobacco other than cigars and cigarettes, prepared, processed, manipulated, or packaged for consumption by smoking or for use in the mouth or nose. Any other tobacco not exempt from tax under Chapter 52, I. R. C., which is sold or delivered to any person contrary to such chapter and regulations thereunder, shall be regarded as manufactured tobacco.

§ 280.23 *Manufacturer of tobacco.* "Manufacturer of tobacco" shall mean every person who manufactures tobacco by any method of preparing, processing, or manipulating, except for his own personal consumption or use; or who packages any tobacco for consumption by smoking or for use in the mouth or nose; or who sells or delivers any tobacco, not exempt from tax under Chapter 52, I. R. C., to any person, contrary to the provisions of such chapter and regulations thereunder. The term "manufacturer of tobacco" shall not include—(a) a farmer or grower of tobacco who sells leaf tobacco of his own growth or raising, or a bona fide association of farmers or growers of tobacco which sells only leaf tobacco grown by farmer or grower members, if the tobacco so sold is in the condition as cured on the farm; or (b) a dealer in tobacco materials who handles tobacco solely for sale, shipment, or delivery, in bulk, to another dealer in such materials or to a manufacturer of tobacco products, or to a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States.

§ 280.24 *Perique.* "Perique" shall mean tobacco, such as that produced in Louisiana, cured in its own juices and given other treatment peculiar to this type of tobacco.

§ 280.25 *Person.* "Person" shall mean and include an individual, partnership, association, company, corporation, estate, or trust.

§ 280.26 *Region.* "Region" shall mean the area, designated by the Secretary or his delegate, comprising the geographical jurisdiction of a regional commissioner of internal revenue.

§ 280.27 *Regional commissioner* "Regional commissioner" shall mean the Regional Commissioner of Internal Revenue of an internal revenue region.

§ 280.28 *Revenue Officer* "Revenue officer" shall mean any officer or employee of the United States acting in connection with any internal revenue law of the United States.

§ 280.29 *Scraps.* "Scraps" shall mean portions of leaf tobacco.

§ 280.30 *Siftings.* "Siftings" shall mean the particles of tobacco salvaged in the process of sifting or screening the residue of tobacco.

§ 280.31 *Stems.* "Stems" shall mean the stems or mid-ribs of tobacco.

§ 280.32 *Tobacco in process.* "Tobacco in process" shall mean tobacco which has been, or is being, manipulated or processed, but is to undergo further manipulation, processing, or handling, prior to removal for consumption by smoking or for use in the mouth or nose.

§ 280.33 *Tobacco materials.* "Tobacco materials" shall mean tobacco in process, Perique, Black Fat, leaf tobacco, and tobacco scraps, cuttings, clippings, siftings, dust, stems, and waste.

§ 280.34 *Tobacco products.* "Tobacco products" shall mean manufactured tobacco, cigars, and cigarettes.

§ 280.35 *U. S. C.* "U. S. C." shall mean the United States Code.

§ 280.36 *Waste.* "Waste" shall mean tobacco, including dust, and foreign substances resulting from the handling, manipulation, or processing of tobacco, and which are worthless for use in the manufacture of tobacco products and have no market value for that purpose.

SUBPART C—GENERAL

§ 280.40 *Authority of revenue officers to enter premises.* The dealer shall permit any internal revenue officer to enter the premises where the dealer keeps tobacco materials for the purpose of examining such materials, and the records maintained by the dealer.

§ 280.41 *Interference with administration.* Whoever, corruptly or by force or threats of force, endeavors to hinder or obstruct the administration of this part, or endeavors to intimidate or impede any revenue officer acting in his official capacity, or forcibly rescues or attempts to rescue or causes to be rescued any property, after it has been duly seized for forfeiture to the United States in connection with a violation or intended violation of this part, shall be liable to the penalties prescribed by law.

(68A Stat. 855; 26 U. S. C. 7212)

§ 280.42 *Disposal of forfeited, condemned, and abandoned tobacco materials.* When in the opinion of any officer having custody of forfeited, condemned, or abandoned tobacco materials, upon which the Federal tax has not been paid, the sale thereof will not bring a price equal to such tax due and payable thereon, and the expenses incident to the sale thereof, he shall not sell, nor cause to be sold, such materials for consumption in the United States. Where the materials are not sold, the officer may deliver them to a Federal or State hospital or institution (if they are fit for human consumption) or cause their destruction in the manner provided in § 280.125. Where such materials are sold, they shall not be released by the officer having custody thereof until they are properly packaged and internal revenue stamps (the cost of which stamps shall be considered as a portion of the sales price) are affixed to each package to denote the payment of tax. In the case of such materials held by or for the Federal Government, the sale thereof shall be subject to the applicable provisions of the Regulations of the General Services Administration, Title 1, Personal Property Management.

(68A Stat. 716, 831; 26 U. S. C. 5753, 6807)

§ 280.43 *Variations from requirements*—(a) *Methods of operation.* The Director, Alcohol and Tobacco Tax Division, may in case of emergency approve methods of operation other than those provided for by this part, where it is shown that variations from the requirements are necessary, will not hinder the effective administration of this part, will not jeopardize the revenue, and where such variations are not contrary to any provision of law. Where it is proposed to employ methods of operation other than those provided for by this part, prior approval shall be obtained in accordance with the provisions of paragraph (b) of this section.

(b) *Application.* A dealer in tobacco materials who proposes to employ methods of operation, other than as provided in this part, shall submit an application so to do, in triplicate, to the assistant regional commissioner. Such application shall describe the proposed variations and state the necessity therefor. The assistant regional commissioner shall make such inquiry as is necessary to ascertain the necessity for the variations and whether approval thereof will hinder the effective administration of this part or result in jeopardy to the revenue. On completion of the inquiry, the assistant regional commissioner will forward two copies of the application to the Director, Alcohol and Tobacco Tax Division, together with a report of his findings and his recommendation.

§ 280.44 *Penalties and forfeitures.* Anyone who fails to comply with the provisions of this part becomes liable to the civil and criminal penalties, and forfeitures, provided by law.

(68A Stat. 717, 718; 26 U. S. C. 5761, 5762, 5763)

SUBPART D—PERSONS EXEMPT AS DEALERS IN TOBACCO MATERIALS

§ 280.50 *Warehouseman or fumigator* A person who merely stores or fumigates tobacco materials solely for a dealer in tobacco materials, for a manufacturer of tobacco products, for a farmer or grower of tobacco, or for a bona fide association of farmers or growers of tobacco, shall be exempt from the provisions of this part.

(68A Stat. 706; 26 U. S. C. 5702)

§ 280.51 *Farmer or grower* A farmer or grower of tobacco who sells leaf tobacco of his own growth or raising, and in the condition as cured on the farm, shall be exempt from the provisions of this part with respect to such tobacco. The farmer or grower may sell such leaf tobacco to any person and in any quantity, either loose or in a hogshead, case, bale, or other container. Where a farmer acquires any of the crop of tobacco grown on his farm by another person, in payment of rent or as his share of the crop, such tobacco, for purposes of this part, shall be regarded as having been grown by the farmer.

(68A Stat. 706; 26 U. S. C. 5702)

§ 280.52 *Farmer's or grower's agent.* A farmer or grower of tobacco, or a group or association of farmers or growers of tobacco, may employ an agent to sell his or their leaf tobacco for him or them. With respect to the sale of such tobacco, the agent may sell the tobacco in the same manner as the farmer or grower thereof provided he—

(a) Does not, in the storage of the tobacco, mingle the tobacco received from one farmer or grower with that of another;

(b) Conducts all sales in the name of his principal or principals;

(c) Transmits to his principal or principals the proceeds of such sales, less the necessary selling expenses and the agent's salary or commission; and

(d) Keeps records of all receipts and sales of tobacco, to be open to inspection by revenue officers, showing—

(1) With respect to tobacco received, the date thereof, the quantity received, and the name and address of the principal or principals, and

(2) With respect to tobacco sold, the date thereof, the quantity sold, the name and address of the purchaser, and the selling price.

The agent may sell by mail, and checks, drafts, and money orders in payment for tobacco sold by him may be made payable to his order.

(68A Stat. 706; 26 U. S. C. 5702)

§ 280.53 *Co-operative association.* A co-operative association comprised of farmers or growers of tobacco, marketing their leaf tobacco in the condition as cured on the farm, and turning back to them the proceeds of sales, less the necessary selling expenses, on the basis of the quality and quantity of leaf tobacco furnished by them, shall, with respect to such tobacco, be exempt from the provisions of this part, except as to the requirement to keep records. Proof that an association is entitled to such exemption, in the form of certified copies of the by-laws, agreements, and contracts, under which it shall operate, shall be furnished to the assistant regional commissioner upon demand. The association may sell such leaf tobacco to any person and in any quantity, either loose or in a hogshead, case, bale, or other container. Such association shall keep records of all receipts and sales of tobacco, which shall be made available for inspection by any revenue officer upon his request.

(68A Stat. 706; 26 U. S. C. 5702)

§ 280.54 *Speculator* A person who buys leaf tobacco on the floor of an auction warehouse, or who buys leaf tobacco from a farmer or grower and places the tobacco on the floor of such a warehouse, and has the tobacco resold on the floor of the same warehouse, or who purchases warehouse receipts for tobacco materials and thus acquires title thereto, but sells such warehouse receipts and passes title to the tobacco, without taking physical possession of the tobacco, shall be exempt from the provisions of this part.

SUBPART E—QUALIFICATION REQUIREMENTS

§ 280.60 *Persons required to qualify.* Every person who intends to engage in the business of a dealer in tobacco materials, as defined in this part, shall qualify as such in accordance with the provisions of this part. Such qualification is required with respect to each establishment where the dealer will conduct such business: *Provided, however* That where such a person operates or controls a group of warehouses solely for the storage of his tobacco materials, in any location in the United States, a single qualification covering all such storage places is sufficient if a consolidated record covering all tobacco materials received into and shipped or delivered from each such storage place is maintained at the establishment of the dealer in tobacco materials having direction and control thereof.

(68A Stat. 706; 26 U. S. C. 5702)

§ 280.61 *Application for permit*—(a) *Persons entering business.* Every person, before commencing business as a dealer in tobacco materials, shall make application, on Form 2093, to the assistant regional commissioner for, and obtain, the permit provided for in § 280.69. The application shall fully set forth the location of the establishment where he intends to carry on such business and of each outside place where his tobacco materials will be stored, if such outside place of storage is not separately qualified as the establishment of a dealer in tobacco materials. Separate application for permit shall be required with respect to each establishment for which qualification is required under § 280.60. All documents required under this part to be furnished with such application shall be made a part thereof.

(b) *Dealers operating on effective date.* Dealers in tobacco materials, as defined in this part, who are operating either as dealers in leaf tobacco or quasi manufacturers of tobacco on the effective date of this part, shall also make application for permit in the manner required by paragraph (a) of this section within 30 days after such date. Such persons may continue their operations pending final action by the assistant regional commissioner with respect to such application.

(68A Stat. 711; 26 U. S. C. 5712)

§ 280.62 *Corporate documents.* Every corporation, before commencing business as a dealer in tobacco materials, shall furnish with its application for permit required by § 280.61, a true copy of the corporate charter or a certificate of corporate existence or incorporation, executed by the appropriate officer of the State in which incorporated. The corporation shall also furnish, in duplicate, evidence which will establish the authority of the officer or other person who executes the application for permit to execute the same; the authority of persons to sign other documents, required by this part, for the corporation; and the identity of the officers and directors, and each person who holds more than ten percent of the stock of such corporation. Where a corporation has previously filed such documents or evidence with the same assistant regional commissioner, a written statement by the corporation, in duplicate, to that effect will be sufficient for the purpose of this section.

(68A Stat. 711; 26 U. S. C. 5712)

§ 280.63 *Articles of partnership or association.* Every partnership or association, before commencing business as a dealer in tobacco materials, shall furnish with its application for permit, required by § 280.61, a true copy of the articles of partnership or association, if any, or certificate of partnership or association where required to be filed by any State, county, or municipality. Where a partnership or association has previously filed such documents with the same assistant regional commissioner, a written statement by the partnership or association, in duplicate, to that effect will be sufficient for the purpose of this section.

(68A Stat. 711; 26 U. S. C. 5712)

§ 280.64 *Trade name certificate.* Every person, before commencing business under a trade name as a dealer in tobacco materials, shall furnish with his application for permit, required by § 280.61, true copies, in duplicate, of the certificate or other document, if any, issued by a State, county, or municipal authority in connection with the transaction of business under such trade name. If no such certificate or other document is so issued, a written statement by such person, in duplicate, to that effect will be sufficient for the purpose of this section.

(68A Stat. 711; 26 U. S. C. 5712)

§ 280.65 *Bond.* Every person, before commencing business as a dealer in tobacco materials, shall, with respect to each establishment (including places of storage operated thereunder) where he intends to carry on such business, file, in connection with his application for permit, a bond, Form 2101, in accordance with the applicable provisions of Subpart G of this part, conditioned upon compliance with the provisions of Chapter 52, I. R. C., and regulations thereunder, including, but not limited to, the timely payment of taxes imposed by such chapter and penalties and interest in connection therewith for which he may become liable to the United States.

(68A Stat. 711; 26 U. S. C. 5711)

§ 280.66 *Power of attorney.* If the application for permit or other qualifying documents are signed by an attorney in fact for an individual, partnership, association, company, or corporation, or by one of the partners for a partnership, or by an officer of an association or company, or in the case of a corporation, by an officer or other person not authorized to sign by the corporate documents described in § 280.62, power of attorney conferring authority upon the person signing the documents shall be manifested on Form 1534 and furnished to the assistant regional commissioner.

§ 280.67 *Additional information.* The assistant regional commissioner may require such additional information as he may deem necessary in connection with the qualification of persons under this subpart.

§ 280.68 *Investigation of applicant.* The assistant regional commissioner shall promptly cause such inquiry or investigation to be made, as he deems necessary, to verify the information furnished in connection with an application for permit and to ascertain whether the applicant is, by reason of his business experience, financial standing, and trade connections, likely to maintain operations in compliance with Chapter 52, I. R. C., and regulations thereunder; whether such person has disclosed all material information required or made any material false statement in the application for such permit; and whether the premises of the establishment on which it is proposed to operate as a dealer in tobacco materials are adequate to protect the revenue. If the assistant regional commissioner has reason to believe that the applicant is not entitled to a permit, he shall promptly give the applicant notice of the contemplated disapproval of his application and opportunity for hearing thereon in accordance with 26 CFR (1939) Part 200, "Rules of Practice in Permit Proceedings," which part (including the provisions relating to the recommended decision and to appeals) is made applicable to such proceedings. If, after such notice and opportunity for hearing, the assistant regional commissioner finds that the applicant is not entitled to a permit, he shall, by order stating the findings on which his decision is based, deny the permit.

(68A Stat. 711; 26 U. S. C. 5712)

§ 280.69 *Issuance of permit.* If the application for permit, bond, and supporting documents, required under this part, are approved by him, the assistant regional commissioner shall issue a permit, Form 2096, to the dealer in tobacco materials who shall keep it posted conspicuously at all times within his establishment. The permit shall bear a number, shall fully set forth where the business of the dealer is to be conducted, and shall indicate whether the dealer also operates outside places of storage. The assistant regional commissioner shall issue an additional permit of the same number, which shall be posted at each such outside place of storage as shown in the application, to cover only the place of storage where it will be posted.

(68A Stat. 712; 26 U. S. C. 5713)

SUBPART F—CHANGES SUBSEQUENT TO ORIGINAL QUALIFICATION

CHANGES IN NAME

§ 280.80 *Change in individual name.* Where there is merely a change in the name of an individual operating as a dealer in tobacco materials, he shall, within 30 days of such change, make application, on Form 2033, for an amended permit, which shall be supported by an extension of coverage of his bond, in accordance with the provisions of § 280.105.

(68A Stat. 711; 26 U. S. C. 5711, 5712)

§ 280.81 *Change in trade name.* Where there is merely a change in the trade name of a dealer in tobacco materials, he shall, within 30 days of the adoption of the new trade name, make application, on Form 2098, for an amended permit, which shall be supported by an extension of coverage of bond, in accordance with the provisions of § 280.105. The dealer shall also furnish true copies, in duplicate, of any new trade name certificate or document issued to him, or statement in lieu thereof, required by § 280.64.

(68A Stat. 711; 26 U. S. C. 5711, 5712)

§ 280.82 *Change in corporate name.* Where there is merely a change in the name of a corporate dealer in tobacco materials, the dealer shall, within 30 days of such change, make application, on Form 2098, for an amended permit, which shall be supported by an extension of the coverage of bond, in accordance with the provisions of § 280.105. The dealer shall also furnish such documents as may be reasonably necessary to establish that the corporate name has been changed.

(68A Stat. 711; 26 U. S. C. 5711, 5712)

CHANGES IN OWNERSHIP AND CONTROL

§ 280.83 *Fiduciary successor* If an administrator, executor, receiver, trustee, assignee, or other fiduciary, is to take over the business of a dealer in tobacco materials, as a continuing operation, such fiduciary shall, before commencing operations, make application for permit and file bond as required by Subpart E of this part, and furnish certified copies, in duplicate, of the order of the court, or other pertinent documents, showing his appointment and qualification as such fiduciary. However, where a fiduciary intends merely to liquidate the business, qualification as a dealer in tobacco materials will not be required if he promptly files with the assistant regional commissioner a statement to that effect, together with an extension of coverage of the predecessor's bond, executed by the fiduciary, also by the surety on such bond, in accordance with the provisions of § 280.105.

(68A Stat. 711; 26 U. S. C. 5711, 5712)

§ 280.84 *Transfer of ownership.* If a transfer is to be made in ownership of a dealer in tobacco materials establishment (including a change in the identity of the members of a partnership or association) such dealer shall give notice, in writing, to the assistant regional commissioner, naming the proposed successor and the desired effective date of such transfer. The proposed successor shall, before commencing operations, qualify as a dealer in tobacco materials, in accordance with the applicable provisions of Subpart E of this part. The dealer shall give such notice of transfer, and the proposed successor shall make application for permit and file bond, as required, in ample time for examination and approval thereof before the desired date of such change. Upon qualification of the successor, the predecessor shall surrender his permit to the assistant regional commissioner.

(68A Stat. 711, 712; 26 U. S. C. 5711, 5712, 5713)

§ 280.85 *Change in officers or directors of a corporation.* Where there is any change in the officers or directors of a corporation operating a dealer in tobacco materials establishment, the dealer shall furnish to the assistant regional commissioner notice, in writing, of the election of the new officers or directors within 30 days after such election.

(68A Stat. 711; 26 U. S. C. 5712)

§ 280.86 *Change in stockholders of a corporation.* Where the issuance, sale, or transfer of the capital stock of a corporation, operating as a dealer in tobacco materials, results in a change in the identity of the principal stockholders exercising actual or legal control of the operations of the corporation, the corporate dealer shall, within 30 days after the change occurs, make application for a new permit; otherwise, the present permit shall be automatically terminated at the expiration of such 30 day period, and the dealer shall dispose of all tobacco materials on hand and surrender his permit to the assistant regional commissioner. If the application for a new permit is timely made, the present permit shall continue in effect pending final action by the assistant regional commissioner with respect to such application.

(68A Stat. 711, 712; 26 U. S. C. 5712, 5713)

CHANGES IN LOCATION

§ 280.87 *Change in location within same region*—(a) *Transfer to a new location.* Whenever a dealer in tobacco materials contemplates changing the location of his establishment within the same region, the dealer shall, before commencing operations at the new location, make application, on Form 2098, for an amended permit. The application shall be supported by an extension of coverage of the bond filed under this part, in accordance with the provisions of § 280.105.

(b) *Mere change in address.* Whenever any change occurs in the address, but not the location, of the establishment of a dealer in tobacco materials, as a result of action of local authorities, the dealer shall, within 30 days of such change, make application, on Form 2098, for an amended permit, which shall be supported by an extension of coverage of the bond filed under this part, in accordance with the provisions of § 280.105.

(68A Stat. 711; 26 U. S. C. 5711, 5712)

§ 280.88 *Change in location to another region.* Whenever a dealer in tobacco materials contemplates changing the location of his establishment to another region, the dealer shall, before commencing operations at the new location, qualify as such a dealer in the new region, in accordance with the applicable provisions of Subpart E of this part. The dealer shall notify the assistant regional commissioner of the region from which he is removing of his qualification in the new region, giving the address of the new location of his dealer's establishment and the number of the permit issued to him in the new region, and surrender the permit for his old location.

(68A Stat. 711, 712; 26 U. S. C. 5711, 5712, 5713)

§ 280.89 *Addition or discontinuance of place of storage.* Whenever a dealer in tobacco materials adds a place of storage for his tobacco materials, he shall make application, on Form 2098, to the assistant regional commissioner who issued his permit, for an additional permit, Form 2096, which shall bear the same number as the permit for his establishment, and shall cover only the location of such additional place of storage where it shall be posted. The application shall be supported by an extension of coverage of his bond, in accordance with § 280.105: *Provided,* That in an emergency, the assistant regional commissioner may, where in his opinion such action is warranted and the revenue will not be jeopardized, authorized, for a stated period, the temporary use of a place for the temporary storage of tobacco materials without making the application or furnishing the extension of coverage required under this section. Whenever a dealer discontinues a place of storage, he shall so notify the assistant regional commissioner and surrender to him the permit for such place of storage.

(68A Stat. 711; 26 U. S. C. 5711, 5712)

SUBPART G—BONDS AND EXTENSIONS OF COVERAGE OF BONDS

§ 280.100 *Corporate surety.* Surety bonds, required under the provisions of this part, may be given, only with corporate sureties holding certificates of authority from the Secretary of the Treasury as acceptable sureties on Federal bonds. Power of attorney and other evidence of appointment of agents and officers to execute bonds on behalf of such corporate sureties shall be filed with, and passed upon by, the Surety Bonds Branch, Division of Deposits and Investments, Bureau of Accounts, Treasury Department. Limitations concerning corporate sureties are prescribed by the Secretary in Treasury Department Form 356, revised. The surety shall have no interest whatever in the business covered by the bond.

(68A Stat. 711, 61 Stat. 646; 26 U. S. C. 5711, 6 U. S. C. 6)

§ 280.101 *Deposit of bonds, notes, or obligations in lieu of corporate surety.* Bonds or notes of the United States, or other obligations which are unconditionally guaranteed as to both interest and principal by the United States, may be pledged and deposited by a dealer in tobacco materials as security in connection with bond to cover his operations, in lieu of the corporate surety, in accordance with the provisions of Treasury Department Circular No. 154, revised (31 CFR Part 225) Such bonds or notes which are nontransferable, or the pledging of which will not be recognized by the Treasury Department, are not ac-

ceptable as security in lieu of corporate surety.

(68A Stat. 711, 61 Stat. 646; 26 U. S. C. 5711, 6 U. S. C. 15)

§ 280.102 *Amount of bond.* The amount of the bond required by this part shall be based on the monthly average quantity of tobacco materials received at the rate of $1,000 for each approximate 100,000 pounds of such materials. In the case of a dealer who has been qualified during the twelve months preceding the month in which the bond is to be filed, this monthly average shall be determined on the basis of all tobacco materials received by him during such twelve months, divided by twelve. The bond shall be supported by a statement of the dealer certifying as to the total tobacco materials received during such twelve-month period. In the case of a dealer commencing business, or of a dealer operating for less than twelve months, the monthly average of tobacco materials received shall be estimated for the purpose of this section. The amount of any such bond (or the total amount where original and strengthening bonds are filed) shall not exceed $20,000 nor be less than $1,000.

(68A Stat. 711, 26 U. S. C. 5711)

§ 280.103 *Strengthening bond.* Where the assistant regional commissioner determines that the amount of the bond, under which a dealer in tobacco materials is currently carrying on such business, no longer adequately protects the revenue, the assistant regional commissioner may require the dealer to file a strengthening bond in an appropriate amount with the same surety as that on the bond already in effect, in lieu of a superseding bond to cover the full liability on the basis of § 280.102. The assistant regional commissioner shall refuse to approve any strengthening bond where any notation is made thereon which is intended or which may be construed as a release of any former bond, or as limiting the amount of either bond to less than its full amount. Such strengthening bonds shall have placed thereon, by the obligors at the time of execution, the notation "Strengthening Bond."

(68A Stat. 711; 26 U. S. C. 5711)

§ 280.104 *Superseding bond.* A dealer in tobacco materials shall file a new bond to supersede his current bond, immediately when (a) the corporate surety on the current bond becomes insolvent, (b) the assistant regional commissioner approves a request from the surety on the current bond to terminate his liability under the bond, (c) payment of any liability under a bond is made by the surety thereon, or (d) the assistant regional commissioner considers such a superseding bond necessary for the protection of the revenue.

(68A Stat. 711; 26 U. S. C. 5711)

§ 280.105 *Extension of coverage of bond.* An extension of the coverage of any bond filed under this part shall be manifested on Form 2105 by the dealer in tobacco materials and by the surety on the bond with the same formality and proof of authority as required for the execution of the bond.

(68A Stat. 711; 26 U. S. C. 5711)

§ 280.106 *Approval of bond and extension of coverage of bond.* No person shall commence operations under any bond, nor extend his operations, until he receives from the assistant regional commissioner notice of his approval of the bond or of an appropriate extension of coverage of the bond required under this part.

(68A Stat. 711; 26 U. S. C. 5711)

§ 280.107 *Termination of liability of surety under bond.* The liability of a surety on any bond required by this part shall be terminated only as to operations on and after the date of approval of a superseding bond, or the date of approval of the discontinuance of operations by the dealer in tobacco materials, or otherwise in accordance with the termination provisions of the bond. The surety shall remain bound in respect of any liability for unpaid taxes, penalties, and interest, not in excess of the amount of the bond, incurred by the dealer while the bond is in force.

(68A Stat. 711; 26 U. S. C. 5711)

§ 280.108 *Release of bonds, notes, and obligations.* Bonds, notes, and other obligations of the United States, pledged and deposited as security in connection with bonds required by this part, shall be released only in accordance with the provisions of Treasury Department Circular No. 154, revised (31 CFR Part 225). When the assistant regional commissioner who has accepted such security is satisfied that it is no longer necessary to hold such security, he shall fix the date or dates on which a part or all of such security may be released. At any time prior to the release of such security, the assistant regional commissioner may, for proper cause, extend the date of release of such security for such additional length of time as in his judgment may be appropriate.

(68A Stat. 711, 61 Stat. 646; 26 U. S. C. 5711, 6 U. S. C. 15)

SUBPART H—OPERATIONS

§ 280.120 *Restrictions on handling, shipment, and delivery of tobacco materials.* A dealer in tobacco materials may handle such materials in any manner, provided he does not package them for consumption by smoking or for use in the mouth or nose. He may ship or deliver tobacco materials, under his bond, only to (a) another qualified dealer in tobacco materials; (b) a qualified manufacturer of tobacco products; (c) a State institution; (d) a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States; or (e) any person for experimental or display purposes when authorized by the assistant regional commissioner. A dealer in tobacco materials may similarly ship or deliver stems and waste to any person for use by him as fertilizer or insecticide or in the production of fertilizer, insecticide, or nicotine.

(68A Stat. 708, 714; 26 U. S. C. 5704, 5731)

§ 280.121 *Tobacco materials released from customs custody.* Tobacco materials imported into the United States from a foreign country, or brought in from Puerto Rico, the Virgin Islands, or a possession of the United States, may be released from customs custody, without the payment of tax, to a qualified dealer in tobacco materials under his bond, solely for receipt into premises covered by the dealer's bond. Before such tobacco materials are released to him, the dealer shall prepare and furnish to the collector of customs having custody of the tobacco materials, a notice of release of tobacco materials, Form 2146. Upon release of the tobacco materials, the collector of customs shall complete the form as to date of release, signature, and title, and shall return one copy to the dealer, retain one copy for his records, and transmit one copy to the assistant regional commissioner shown thereon. The copy returned to the dealer shall be retained by him for two years after the close of the year of such release, and shall be made available for inspection by any revenue officer upon his request.

(68A Stat. 703; 26 U. S. C. 5704)

§ 280.122 *Fumigation of tobacco materials.* Tobacco materials held by, or released or in transit to, a dealer in tobacco materials may be delivered to a person, who is not qualified as a dealer in tobacco materials or manufacturer of tobacco products, solely for purposes of fumigation by such person and return or delivery to the dealer. Such tobacco materials shall be covered by the bond of the dealer and shall not be regarded as shipped by the dealer for purposes of § 280.127.

§ 280.123 *Exportation.* A dealer in tobacco materials may ship or deliver tobacco materials, under his bond, without payment of tax, to a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States, in accordance with the applicable provisions of Part 290 of this chapter.

(68A Stat. 703; 26 U. S. C. 5704)

§ 280.124 *Samples of tobacco materials.* Samples of tobacco materials, received by a dealer in tobacco materials, which are to be consumed, used, or destroyed for purposes of sampling, testing, or experimenting, shall be exempt from the provisions of § 280.127.

(68A Stat. 715; 26 U. S. C. 5741)

§ 280.125 *Destruction of tobacco materials—(a) Stems and waste.* Where a dealer in tobacco materials desires to destroy stems and waste, he shall do so by burning or by mixing thoroughly with lime, sulphur, bone dust, ashes, or other such substance.

(b) *Other materials.* Where a dealer desires to destroy tobacco in process, Perique, Black Fat, leaf tobacco, scraps, cuttings, clippings, and siftings, and obtain credit therefor in the records kept by him under § 280.127, he shall notify the assistant regional commissioner of the kind and quantity of such tobacco materials and the date on which he desires to destroy such tobacco mate-

rials. The assistant regional commissioner may assign a revenue officer to supervise the destruction of the tobacco materials, or he may authorize the dealer to destroy the tobacco materials in the manner provided in paragraph (a) of this section.

(68A Stat. 715; 26 U. S. C. 5741)

§ 280.126 *Credit for loss of tobacco materials by theft or destruction.* Every loss of tobacco materials by theft, or destruction by fire, casualty, or act of God, while in the possession or ownership of a dealer in tobacco materials, shall be reported to the assistant regional commissioner and the facts of such loss shall be established to his satisfaction before credit therefor in the records of such dealer may be authorized.

(68A Stat. 715; 26 U. S. C. 5741)

§ 280.127 *Records.* Every dealer in tobacco materials shall maintain at his establishment complete and adequate records consistent with accepted commercial practice, of all tobacco materials received (except with respect to samples as provided by § 280.124) lost or destroyed, and shipped or delivered by him. The records shall show (a) with respect to tobacco materials received, the date, kind, quantity, and the name and address of each person from whom received, (b) with respect to materials lost or destroyed, the date, kind, and quantity as well as pertinent details as to such loss or destruction, and (c) with respect to materials shipped or delivered, the date, kind, quantity, and the name and address of each person to whom shipped or delivered. Such records, to include purchase and sales invoices, shall be retained for two years following the close of the year covered in such records, and made available for inspection by any revenue officer upon his request.

(68A Stat. 715; 26 U. S. C. 5741)

§ 280.128 *Statement of shipments and deliveries.* Every dealer in tobacco materials shall on demand of any revenue officer, furnish a true and complete statement, in the form required, of the quantity of all tobacco materials shipped or delivered to any person named in such demand, giving all pertinent details in connection with each such shipment or delivery.

(68A Stat. 714; 26 U. S. C. 5732)

§ 280.129 *Inventory.* When the interests of the Government may demand, a revenue officer may require a dealer in tobacco materials to make an inventory of all such materials held by the dealer.

§ 280.130 *Liability of dealer in tobacco materials.* Tobacco materials shipped or delivered contrary to the provisions of § 280.120 shall be regarded as manufactured tobacco, subject to tax at the rate imposed on manufactured tobacco, and the dealer in tobacco materials shipping or delivering such materials shall be regarded as a manufacturer of tobacco subject, as such, to the internal revenue laws and to Part 275 of this chapter relating to manufacturers of tobacco.

(68A Stat. 714; 26 U. S. C. 5731)

§ 280.131 *Assessment of tax.* The tax determined to be due under § 280.130 on tobacco materials shipped or delivered by a dealer in tobacco materials contrary to the provisions of this part shall be assessed, subject to the limitations prescribed in section 6501, I. R. C., against such dealer. The tax so assessed shall be in addition to any penalties prescribed by law for failure to pay such tax: *Provided,* That, except in cases where delay may jeopardize collection of the tax, or where the amount is nominal or the result of an evident mathematical error, no such assessment shall be made until and after notice has been afforded such dealer to show cause against assessment. The dealer will be allowed 30 days from the date of such notice to show cause, in writing, against such assessment.

(68A Stat. 707, 836; 26 U. S. C. 5703, 6862)

§ 280.132 *Claim for abatement of assessment.* Claim for abatement of the unpaid portion of the assessment of any tax on tobacco, or any liability in respect of such tax, alleged to be excessive in amount, assessed after the expiration of the period of limitation applicable thereto, or erroneously or illegally assessed, shall be filed on Form 843, in duplicate, with the assistant regional commissioner. Such claim shall set forth the reasons relied upon for the allowance of the claim and be accompanied by evidence necessary to support the claim.

(68A Stat. 792; 26 U. S. C. 6404)

§ 280.133 *Claim for refund of tax.* The tax paid on tobacco materials may be refunded where the tax has been paid in error. Any dealer who paid the tax may file claim for refund thereof under this section. The claim for refund, Form 843, shall be filed in duplicate within three years from the date of payment of the tax, with the assistant regional commissioner for the region in which the tax was paid, and the claim shall be supported by evidence necessary to establish to the satisfaction of the assistant regional commissioner that the claim is valid.

(68A Stat. 709; 26 U. S. C. 5705)

SUBPART I—SUSPENSION AND DISCONTINUANCE OF OPERATIONS

§ 280.140 *Discontinuance of operations.* Every dealer in tobacco materials who desires to discontinue operations and close out his establishment shall dispose of all tobacco materials on hand, in accordance with this part, and surrender his permit to the assistant regional commissioner as notice of such discontinuance and to permit the assistant regional commissioner to terminate the liability of the surety on the bond of the dealer.

§ 280.141 *Suspension and revocation of permit.* Where the assistant regional commissioner has reason to believe that a dealer in tobacco materials has not in good faith complied with the provisions of Chapter 52, I. R. C., and regulations thereunder, or with any other provision of the I. R. C. with intent to defraud, or has violated any condition of his permit, or has failed to disclose any material information required or made any material false statement in the application for the permit, or has failed to maintain his premises in such manner as to protect the revenue, the assistant regional commissioner shall issue an order, stating the facts charged, citing such dealer to show cause why his permit should not be suspended or revoked after hearing thereon in accordance with 26 CFR (1939) Part 200, "Rules of Practice in Permit Proceedings," which part (including the provisions relating to appeals) is made applicable to such proceedings. If the hearing examiner, or the Director, Alcohol and Tobacco Tax Division, on appeal, decides the permit should be revoked or suspended for such time as to him seems proper, the assistant regional commissioner shall by order give effect to such decision.

(68A Stat. 712; 26 U. S. C. 5713)

[F. R. Doc. 55-8171; Filed, Oct. 7, 1955; 8:49 a. m.]

TITLE 22—FOREIGN RELATIONS

Chapter I—Department of State

[Dept. Reg. 108.268]

PART 41—VISAS: DOCUMENTATION OF NONIMMIGRANT ALIENS UNDER THE IMMIGRATION AND NATIONALITY ACT

VALIDITY OF PASSPORTS PRESENTED BY ALIENS IN TRANSIT

Part 41, Chapter 1, Title 22 of the Code of Federal Regulations, is hereby amended in the following respect:

Subparagraph (2) of paragraph (b) of § 41.6 is amended to read as follows:

(2) An alien not within the purview of paragraph (b) (1) of this section who is being transported in immediate and continuous transit through the United States without stopover from one foreign place to another in accordance with the terms of a contract, including a bonding agreement, entered into by a transportation line and the Attorney General under the provisions of section 238 (d) of the act, to insure such immediate and continuous transit through, and departure from, the United States en route to a specifically designated foreign country: *Provided,* That such alien is in possession of a travel document which is valid for his entry into a foreign country for a period of not less than 30 days after the date his immediate and continuous transit through the United States begins: *And provided further,* That at all times such alien is not aboard an aircraft which is in flight through the United States he shall be in the custody of an officer of the United States or, if the Attorney General finds that such custody is not practicable, in such other custody as may be approved by the Attorney General.

(Sec. 104, 66 Stat. 174; 8 U. S. C. 1104)

The regulation contained in this order shall become effective upon publication in the FEDERAL REGISTER. The provisions of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C. 1003) relative to notice of proposed rule making and delayed effective date are inapplicable to this order because the reg-

ulation contained therein involves a foreign affairs function of the United States.

Dated: September 19, 1955.

SCOTT MCLEOD,
Administrator Bureau of Security and Consular Affairs, Department of State.

Dated: September 28, 1955.

J. M. SWING,
Commissioner of Immigration and Naturalization, Immigration and Naturalization Service, Department of Justice.

[F. R. Doc. 55-8163; Filed, Oct. 7, 1955; 8:48 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter V—Department of the Army

Subchapter B—Claims and Accounts

PART 536—CLAIMS AGAINST THE UNITED STATES

TEXAS CITY DISASTER CLAIMS

Rules of procedure for Texas City disaster claims are added to Part 536, as follows:

Sec.
536.110 Purpose.
536.111 Scope.
536.112 Law applicable.
536.113 Action by claimant.
536.114 Investigation.
536.115 Designation of approving authority.
536.116 Amounts payable.
536.117 Settlement agreement and assignment.
536.118 Acceptance of award.
536.119 Payment.
536.120 Subrogation.
536.121 Transfers and assignments.
536.122 Attorney's and agents' fees.
536.123 Penalty for violations.
536.129 DA Form 1572.

AUTHORITY: §§ 536.110 to 536.129 issued under Public Law 378, 84th Congress.
SOURCE: AR 25-150, September 29, 1955.

§ 536.110 *Purpose.* The regulations in §§ 536.110-536.129 set forth the rules of procedure for handling claims against the United States for death, personal injury, and property losses proximately resulting from the explosions and fires at Texas City, Texas, on 16 and 17 April 1947, under the act of 12 August 1955 (Public Law 378, 84th Cong., 69 Stat. 707) hereinafter referred to as the "act."

§ 536.111 *Scope*—(a) *Limitations as to claimants.* Only those claims which were a part of a civil action against the United States in a United States district court prior to 25 April 1950 shall be entertained under the regulations of §§ 536.110-536.129, except that this limitation date may be waived where it is determined by the approving authority that for good cause, and by reason of infancy, insanity, or other legal reason, claimant was unable to bring such civil action.

(b) *Limitation as to time for filing.* Claimants are required to submit their claims in writing before 9 February 1956.

(c) *Limitations as to amount of award.* No claim based on death may be approved in an amount in excess of $25,000.00, no claim for personal injuries may be approved in an amount in excess of $25,000.00, and no claim for property losses may be approved in an amount in excess of $25,000.00.

§ 536.112 *Law applicable.* Except as otherwise provided in the act, the law of the State of Texas shall apply.

§ 536.113 *Action by claimant*—(a) *Claimant.* Claims for awards based on death shall be submitted only by duly authorized legal representatives. Claims for personal injuries or property losses may be submitted by persons entitled to awards therefor under the act, or by their duly authorized agents or representatives.

(b) *Form of claim.* Claims should be submitted by presenting properly completed in triplicate, DA Form 1572 (one-time) which has been prepared for Texas City disaster claims, shown in § 536.129. Supply of forms may be procured from the Chief, Claims Division, Office of the Judge Advocate General, Department of the Army, Fort Holabird, Baltimore 19, Maryland, or from the Chief of any field branch of that office which may be established in Texas. If forms are not available, reproduction by claimants is authorized and will be accepted.

(c) *Signature.* DA Form 1572 and all other papers requiring the signature of the claimant should be signed by the claimant, personally, or by a duly authorized agent or representative. The signature should include the given name, middle initial, if any, and surname, of the signer. In claims for death, only a duly authorized legal representative may sign. All signatures must be in ink and should be identical on all papers. When a claim is signed by a married woman, it should be signed in her given name, e. g., "Mary A. Roe" instead of "Mrs. John Roe" A claim signed by a representative or agent will show his title or capacity and will be accompanied by evidence of the authority of such person to act.

(d) *Presentation.* The claim must be submitted before 9 February 1956 to the Chief, Claims Division, Office of The Judge Advocate General, Department of the Army, Fort Holabird, Baltimore 19, Maryland, or to the Chief of any field branch of that office which may be established in Texas. The claim should be accompanied by all competent evidence available to the claimant, in duplicate, concerning the cause of the property loss, personal injury or death for which claim is made; indicating that the claim was a part of a civil action filed against the United States in a United States district court prior to 25 April 1950, or providing good cause for the failure to file such civil action, and that the claimant is otherwise entitled to receive an award under the act; and establishing the propriety of the amount claimed, to include evidence of all insurance benefits or other payments or settlements of any nature previously paid with respect to the claim. Upon receipt of the claim, the date of receipt will be stamped or otherwise noted on all copies of the claims form by the office to which the claim has been presented.

§ 536.114 *Investigation.* Every claim will be investigated under the direction of the Chief, Claims Division, Office of The Judge Advocate General, Department of the Army, Fort Holabird, Baltimore 19, Maryland. The investigation should be as complete as practicable, consideration being given to all facts and circumstances of significance to the merits of the claim and the quantum of damages, if any, in the light of the Act and the regulations of §§ 536.110-536.129. So far as consistent with the mentioned applicable authorities, the provisions of SR 25-20-1, special regulations of the Army pertaining to the investigation of claims, will be followed as a guide.

§ 536.115 *Designation of approving authority.* Claims presented under the regulations of §§ 536.110-536.129 may be settled by the Chief, Claims Division, Office of The Judge Advocate General, Department of the Army, or any officer of The Judge Advocate General's Corps assigned to the Claims Division, subject to such limitations as the Chief, Claims Division, may prescribe. The amount of awards, if any, in each claim under the act and the regulations of §§ 536.110-536.129 will be determined and fixed by the approving authority within 12 months from the date on which the claim was submitted by the claimant.

§ 536.116 *Amounts payable.* (a) See § 536.111 (c)

(b) The approving authority will reduce any amount determined to be payable upon a claim by an amount equal to the total of insurance benefits (except life insurance benefits) or other payments, or settlements of any nature, previously paid.

(c) The approving authority will not include in an award any amount for reimbursement to any insurance company, compensation insurance fund or other insurer for loss payments made by such company, fund or other insurer.

§ 536.117 *Settlement agreement and assignment.* (a) When a claim within the monetary jurisdiction of the approving authority has been approved, the claimant or his duly authorized agent or representative will be requested to sign and return to the approving authority, in triplicate, a settlement agreement and assignment substantially as follows:

I hereby agree to accept $_____ in full satisfaction and final settlement of all claims which I have or may have against the United States, its officers, agents, employees, or instrumentalities for (death) (personal injuries) (property losses) resulting from the disaster at Texas City, Texas, on 16 and 17 April 1947; and I hereby transfer, set over, and assign to the United States any and all rights of action against a third party arising from the (death) (personal injuries) (property losses) claim with respect to which settlement is made.

(b) If the claim is presented in an amount in excess of $25,000.00 and the approving authority considers that it is meritorious in an amount not in excess of $25,000.00, the approving authority

will so inform the claimant and request a settlement agreement and assignment If the claim is considered meritorious in an amount in excess of $25 000 00, the claimant will be advised that there is no statutory authority to award more than $25 000 00 and that the claim can be approved only if he voluntarily consents to accept $25 000 00 in settlement; that in the absence of such acceptance the claim will be disposed of pursuant to section 10 (a) of the act

§ 536 118 *Acceptance of award* The acceptance by a claimant or his authorized agent or representative of any award or settlement made pursuant to the act and the regulations of §§ 536 110–536 129 shall constitute a complete release by the claimant of any and all claims against the United States its officers, agents, employees or instrumentalities arising out of the Texas City disaster of 16 and 17 April 1947

§ 536 119 *Payment* Awards made by the approving authority under the act and the regulations of §§ 536 110–536 129 shall be paid, pursuant to the act, by the Secretary of the Treasury

§ 536 120 *Subrogation* Payments approved on death personal injury and property loss claims shall not be subject to insurance subrogation claims, in any respect

§ 536 121 *Transfers and assignments.* No claim cognizable under the act and the regulations of §§ 536 110–536 129 will be assigned or transferred except to the United States as provided in § 536 117

§ 536 122 *Attorneys' and agents' fees.* Attorneys and agents fees shall be paid by claimants out of the awards made pursuant to the act and the regulations of §§ 536 110–536 129 No attorney or agent, on account of services rendered in connection with a claim, shall receive in excess of 10 per centum of the award made, any contract to the contrary notwithstanding

§ 536 123 *Penalty for violations* The act provides for punishment for violation of its provisions by a fine in a sum not to exceed $5 000 00

§ 536 129 *DA Form 1572*—(a) *Front* The front of DA Form 1572 reads as follows:

TEXAS CITY DISASTER CLAIM — Submit To:

(For use only for Texas City disaster claim)

(AR 25–150)

Notice to Claimant: In order that your claim for damages may receive proper consideration you are requested to supply the information called for on this form All material facts should be substantiated by the best evidence available as such evidence will be the basis of further action upon your claim The instructions on the reverse side should be read carefully before the form is prepared Submit this form in triplicate and all supporting documents in duplicate Use additional sheets for continuation of numbered items identifying each by number Use ink or typewriter

1a Name of claimant (Last first middle initial)

b Address | April 1947

At present

2a. Name of attorney or agent (if any) with respect to this claim

b Address

3 Amount of claim (Itemize on schedules)

Death ---------- $

Personal injury ---------- $

Property ---------- $

Total ---------- $

4a Date of death injury or loss

---------- 16 April 1947 ---------- 17 April 1947 ---------- Other (specify)

b Time (indicate a m or p m)

5a Cause of death

-------- Blast -------- Fire -------- Collapse of building

-------- Flying debris -------- Demolition -------- Incident to emergency rescue work

-------- Other (specify)

b Statement of all relevant facts and circumstances indicating where and how each element of damage resulted from the disaster

6a This claim was a part of civil action No ---- filed in the ---------- Division U S District Court for the District of ---------- on ----------

under the title ----------; ----------, ---------- vs United States

b No civil action was filed against the United States to recover the damages alleged herein Good cause for not filing such court action prior to 25 April 1950 is: (State fully)

7a The claimant received compensation incident to the death injury or property loss for which this claim is made as follows: (If none so state here ----------)

Basis (insurance, including policy number and type)	Name an address of payor	Amount

b Details of all demands on insurance companies including denied demands

8 Witnesses

Name	Address

9 Criminal penalty for presenting fraudulent claim or making false statements

Fine of not more than $10 000 or imprisonment for not more than 5 years or both (See 62 Stat 698 749; 18 U S C 287, 1001)

Civil penalty for presenting fraudulent claim

The claimant shall forfeit and pay to the United States the sum of $2 000 plus double the amount of damages sustained by the United States (See R S § 3490 5438; 31 U S C 231)

Penalty for violation of Act of 12 August 1955

Fine of not to exceed $5 000 (Pub Law 378 84th Congress)

I declare under the penalties of perjury that the amount of this claim covers only damages and injuries caused by the incident above described I agree to accept said amount in full satisfaction and final settlement of this claim.

Signature of claimant (Given name middle initial if any, and surname)

(Date of claim)

(b) *Back* The back of DA Form 1572 reads as follows:

10 Death

a Decedent's name

b Age at death

c Salary for three years preceding decedent's death (per year)

d Survivors entitled under death statute

Name	Address	Relationship	Age	Dependent upon deceased (yes—no)

11 Personal injury

a Nature and extent of injuries

b Names and addresses of attending physicians

c Names and addresses of hospitals, etc., where claimant received care and inclusive dates

12 Real property damage

(1) Location and description of property	(2) Nature and extent of damage
(3) Value before damage*	(4) Value after damage*
(5) Date repairs made	(6) Cost of repairs

(7) Persons having an interest in the property (including claimant)

Type of interest	Name	Address

*Not applicable with respect to property repaired

13 Personal property

Line NR	Quantity	Description of article (includes trade mark or brand name if known)	Month and year of acquisition	Purchase price (value if acquired other than by purchase)	Value when lost or destroyed	Cost of repairs (if damaged only)	Value after incident (if damaged and not economically reparable)
a	*b*	*c*	*d*	*e*	*f*	*g*	*h*

Instructions Claims for awards based on death shall be signed and submitted only by duly authorized legal representatives Claims for personal injury or property loss may be signed and submitted by persons entitled to awards therefor under the act, or by their duly authorized agents or representatives A claim signed by an agent or representative will show his or her title or capacity and be accompanied by evidence establishing the authority of such person to act

The amount claimed should be substantiated by competent evidence as follows:

a As to claims for personal injury or death, the claimant should submit a written report by the attending physician showing the nature and extent of injury the nature and extent of treatment the degree of permanent disability if any, the prognosis and the period of hospitalization or incapacitation attaching itemized bills for medical hospital or burial expenses incurred Claims for loss of time or loss of earnings should be supported by a written report from the claimant's employer showing the claimant's age occupation, wage or salary time lost from work whether or not a full time employee and actual period of employment by dates If the claimant is self employed, his claim for loss of earnings must be supported by competent evidence as to the amount of earnings actually lost

b As to claims for damage to property which has been or can be economically repaired the claimant should submit an itemized signed statement or estimate by a reliable disinterested concern or, if payment has been made, an itemized signed receipt evidencing payment

c As to claims for damage to property which was not economically reparable, or if the property was lost or destroyed, the claimant should submit a statement substantiating his averments as to the value of the property, both before and after the incident Such statement should be by a disinterested competent person, preferably a reputable dealer or official familiar with the type of property damaged

Any further instructions or information necessary in the preparation of your claim will be furnished, upon request by the office indicated on the front of this form.

[SEAL]

JOHN A KLEIN,
Major General, USA, The Adjutant General

[F R. Doc 55-8144; Filed Oct 7, 1955; 8:45 a m]

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Appendix C—Public Land Orders

[Public Land Order 1233]

ALASKA

WITHDRAWING PUBLIC LANDS FOR USE OF BUREAU OF INDIAN AFFAIRS FOR SCHOOL PURPOSES AND REINDEER RESERVE; PARTIALLY REVOKING EXECUTIVE ORDER OF JANUARY 7, 1903, AND EXECUTIVE ORDER NO 2141 OF FEBRUARY 27, 1915

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952, and the act of May 31, 1938 (52 Stat 593; 48 U S C 353a) it is ordered as follows:

1 Subject to valid existing rights, the following-described public lands in Alaska are hereby withdrawn from all forms of appropriation under the public-land laws, including the mining and the mineral-leasing laws, and reserved under the jurisdiction of the Department of the Interior for use by the Bureau of Indian Affairs:

FORT GRAHAM

[59648]

FOR SCHOOL PURPOSES

Beginning at a point located S. 69° 30' W., 480 feet from witness corner located 25 links south of Corner No 1 of U S Survey 510, thence South 160 feet to a point; West 36 feet to a point; South 844 feet to a point; West 310 feet to a point; North 700 feet to a point; East 75 feet to a point; North 300 feet to a point; East 270 feet to the point of beginning

The tract described contains 6 7 acres

KOTZEBUE

[63537]

AS A REINDEER RESERVE

That part of U S Survey No 2407 described as follows:

Beginning at a point on line 1-6 U S S 2407 from which Corner No. 1 bears S 45° 55 E, 158 80 feet, thence N 45° 55' W 117 40 feet along line 1-6 U S S 2407; S 44° 05 W, 135 feet; S 45° 55 E 117 40 feet; N 44° 05' E 135 feet to point of beginning

The tract described contains 0 36 acre

GAMBELL

[59035]

FOR SCHOOL PURPOSES

Beginning at a point from which the northwest corner of the Alaska Native Service school building bears Easterly, 40 feet and Southerly 11 feet 8 inches, in approximate latitude 63° 47' N., longitude 171° 45' W., thence Southerly, 106 feet; Northerly, 100 feet; Southeasterly, 50 feet; Southwesterly, 100 feet; Southeasterly, 58 feet; Northeasterly, 100 feet; Southeasterly, 62.5 feet; Southwesterly, 100 feet; Northwesterly, 62.5 feet; Southwesterly, 144 feet; Southeasterly, 40 feet; Southwesterly, 94 feet; Northwesterly, 40 feet; Northeasterly, 86 feet; Northwesterly, 224 feet; Northeasterly, 152 feet to point of beginning.

The tract described contains 1.10 acres.

TYONEK

[62914]

FOR SCHOOL PURPOSES

Beginning at a point in the Native Village of Tyonek from which M. C. 12, U. S. Survey 1865 bears southwesterly 551 feet, in approximate latitude 61°04' N., longitude 151°10' W., thence N. 65° W., 250 feet; N. 25° E., 250 feet; S. 65° E., 250 feet; S. 25° W., 250 feet to point of beginning.

The tract described contains 1.4 acres.

2. The Executive order of January 7, 1903, reserving St. Lawrence Island for use as a reindeer station is hereby revoked so far as it affects the above described lands at Gambell.

3. Executive Order No. 2141 of February 27, 1915, reserving certain public lands in Alaska for use of the United States Bureau of Education is hereby revoked so far as it affects the above described lands at Tyonek.

OCTOBER 4, 1955.

FRED G. AANDAHL,
Assistant Secretary of the Interior

[F. R. Doc. 55-8147; Filed, Oct. 7, 1955; 8:45 a. m.]

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Rules Amdt. 2-8]

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

TABLE OF FREQUENCY ALLOCATIONS

In the matter of revision of Part 2 of the Commission's rules to effect certain editorial changes therein; Rules Amdt. 2-8.

1. The Commission having under consideration the desirability of making certain editorial changes in Part 2 of its rules; and

2. It appearing that, on November 20, 1953, the Commission adopted an order which, in part, amended Part 2 of its rules to reflect a change in station designation from "Interim FM relay station" to "FM inter-city relay station" in footnote NG14 to § 2.104 (a) (5) and

3. It further appearing that this change is not reflected in the latest reprinting of Part 2 of the Commission's rules, as revised effective July 1, 1955, and

4. It further appearing that the amendments adopted herein are editorial in nature, and therefore, prior publication of Notice of Proposed Rule Making under the provisions of section 4 of the Administrative Procedure Act is unnecessary, and the amendments may become effective immediately and

5. It further appearing that the amendments adopted herein are issued pursuant to authority contained in sections 4 (i) and 5 (d) (1) and 303 (r) of the Communications Act of 1934, as amended, and section 0.341 of the Commission's Statement of Organization, Delegations of Authority and Other Information;

6. *It is ordered,* This 4th day of October 1955, that, effective immediately, Part 2 of the Commission's rules is amended as set forth below.

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interprets or applies sec. 5, 48 Stat. 1068, as amended, sec. 303, 48 Stat. 1083, as amended; 47 U. S. C. 155, 303)

Released: October 4, 1955.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

Amend Part 2, § 2.104 (a) (5) in the following particulars:

Delete the present wording of footnote NG14 and substitute the following in lieu thereof:

NG14 FM inter-city relay stations may be authorized to use the band 940-952 Mc on the condition that harmful interference will not be caused to stations operating in accordance with the table of frequency allocations.

[F. R. Doc. 55-8181; Filed, Oct. 7, 1955; 8:50 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

[9 CFR Part 78]

BRUCELLOSIS IN DOMESTIC ANIMALS

INTERSTATE MOVEMENT OF ANIMALS

On April 8, 1954, there was published in the FEDERAL REGISTER (19 F. R. 2020) a notice with respect to proposed amendments of Subchapter C, Chapter I, Title 9, Code of Federal Regulations. After consideration of all data, views, and arguments submitted in connection with the proposed amendments, it has been determined that certain modifications should be made therein. Notice is hereby given in accordance with section 4 of the Administrative Procedure Act (5 U. S. C. 1003) that, pursuant to the provisions of sections 6, 7, and 13 of the Act of May 29, 1884, as amended (21 U. S. C. 114a-1, 115, 117) sections 1 and 2 of the Act of February 2, 1903, as amended (21 U. S. C. 111-113, 120) and section 3 of the Act of March 3, 1905, as amended (21 U. S. C. 125) it is now proposed that the following regulations be issued in lieu of the provisions of paragraph (h) of § 78.1 and Subpart C as set forth in the notice published on April 8, 1954:

§ 78.1 *Definitions.* As used in this part, the following terms shall have the meanings set forth in this section except as otherwise clearly indicated.

* * * * *

(h) *Official vaccinate.* A bovine animal vaccinated against brucellosis from 4 through 8 months of age, or a bovine animal of a beef breed in a range or semirange area, vaccinated against brucellosis from 4 to 12 months of age, under the supervision of a Federal or State veterinary official, with a vaccine approved by the Animal Disease Eradication Branch, Agricultural Research Service, United States Department of Agriculture; permanently identified as such a vaccinate; and reported at the time of vaccination to the appropriate State and Federal Agency cooperating in the eradication of brucellosis.

* * * * *

SUBPART C—RESTRICTIONS ON MOVEMENT OF CATTLE BECAUSE OF BRUCELLOSIS

§ 78.10 *General restriction.* Cattle may not be moved interstate except as provided in the regulations in this subpart.

§ 78.11 *Designation of modified certified brucellosis-free areas.* The following States, counties, and municipalities, are hereby designated as modified certified brucellosis-free areas:

(a) The State of Maine;
(b) The State of New Hampshire;
(c) The State of North Carolina;
(d) Cherokee, Douglas, Gilmer, Gwinnett, Murray, Paulding, and Pickens Counties, in Georgia;
(e) Benewah, Bonner, Boundary, Clearwater, Kootenai, Latah, Lewis, and Shoshone Counties, in Idaho;
(f) Crawford County, in Indiana;
(g) Garrett, Somerset, Wicomico, and Worcester Counties, in Maryland;
(h) Alger, Antrim, Arenac, Baraga, Benzie, Charlevoix, Cheboygan, Chippewa, Delta, Dickinson, Emmet, Gogebic, Grand Traverse, Houghton, Iron, Kalkaska, Keweenaw, Leelanau, Luce, Mackinac, Marquette, Menominee, Ogemaw, Ontonagon, Otsego, Presque Isle, Schoolcraft, and Wexford Counties, in Michigan;
(i) Aitkin, Becker, Beltrami, Big Stone, Blue Earth, Brown, Carlton, Cass, Chippewa, Clay, Clearwater, Cook, Cottonwood, Hubbard, Itasca, Kittson, Koochiching, Lake, Lake of the Woods, Mahnomen, Marshall, Norman, Pennington, Polk, Pope, Red Lake, Redwood, Renville, Rosseau, St. Louis, Stevens, Traverse, Wasena, Wilkin, Wright, and Yellow Medicine Counties, in Minnesota;
(j) Beaverhead, Carbon, Cascade, Daniels, Lake, Mineral, Missoula, and Sheridan Counties, in Montana;
(k) Hillmore and York Counties, in Nebraska;

(l) Cape May County, in New Jersey;

(m) Benson, Burke, Cavalier, Divide, Eddy, Grand Forks, Griggs, Mercer, Morton, Montrail, Nelson, Oliver, Pembina, Pierce, Ramsey, Renville, Rolette, Trail, Walsh, Ward, Wells, and Williams Counties, in North Dakota;

(n) Clatsop, Coos, Curry, and Josephine Counties, in Oregon;

(o) Allegheny, Armstrong, Blair, Butler, Cameron, Carbon, Clarion, Clearfield, Clinton, Columbia, Dauphin, Elk, Forest, Greene, Huntingdon, Indiana, Juniata, Jefferson, Lawrence, Luzerne, Lycoming, McKean, Schuylkill, Somerset, Sullivan, Venango, Washington, and Wyoming Counties, in Pennsylvania;

(p) Allendale, Bamberg, Barnwell, Cherokee, Chester, Marlboro, Union, and York Counties, in South Carolina;

(q) Benton, Chelan, Clark, Columbia, Cowletz, Douglas, Franklin, Island, Kitsap, Garfield, Grant, Grays Harbor, Lewis, Lincoln, Pacific, Pend Oreille, San Juan, Skamania, Spokane, Stevens, and Wahkiakum Counties, in Washington;

(r) Barbour, Cabell, Doddridge, Fayette, Grant, Greenbrier, Harrison, Marshall, Mineral, Ohio, Raleigh, Roane, Upshur, and Wetzel Counties, in West Virginia;

(s) Vilas County, in Wisconsin; and

(t) Adjuntas, Aguadilla, Aguada, Aguas, Buenas, Anasco, Arroyo, Barceloneta, Camuy, Ciales, Cidra, Corozal, Guanico, Guayanilla, Hatillo, Isabela, Jayuya, Lares, Las Marias, Manati, Maricao, Maunabo, Moca, Morovia, Orocovis, Patillas, Penuelas, Quebradillas, Rincon, Rio Grande, San German, Sabana Grande, San Juan, Santa Isabel, Trujillo Alto, Utuado, Vega Alta, Vega Baja, Villalba, and Vauco Municipalities, in Puerto Rico.

§ 78.12 *Movement of brucellosis reactor cattle.* Cattle which have reacted to a test recognized by the Secretary of Agriculture for brucellosis may be moved interstate in accordance with the regulations in Subpart B of this part.

§ 78.13 *Movement of other cattle.*[1] (a) Steers and spayed heifers and calves under 8 months of age, not known to be affected with brucellosis, may be moved interstate without restriction under this subpart.

(b) Cattle of the following classes, not known to be affected with brucellosis, may be moved interstate without other restriction under this subpart, if accompanied by a certificate issued by a Federal or State inspector or an accredited veterinarian showing the identification tag, tattoo, or registration number of each animal and showing the specific class in which the cattle fall:

(1) Cattle originating in certified brucellosis-free herds;

(2) Cattle originating in the modified certified brucellosis-free areas specified in § 78.11,

(3) Cattle which are official vaccinates under 30 months of age at the time of interstate movement;

(4) Cattle from herds, under Federal-State supervision for the control of brucellosis, in which all animals over eight months of age, except official vaccinates under thirty months of age, have been subjected to a blood agglutination test, recognized by the Secretary of Agriculture for brucellosis, under the supervision of a Federal or State veterinary official, within 90 days prior to the date of movement interstate and found negative; the individual animals to be moved interstate having been subjected to another such test at least 30 days from the date of the previous herd test and within 30 days prior to the date of movement interstate and found negative;

(5) Cattle which are official vaccinates over 30 months of age at the time of movement interstate; which have been subjected to a test, recognized by the Secretary of Agriculture for brucellosis, under the supervision of a Federal or State veterinary official, after 30 months of age and found not to disclose a reaction exceeding incomplete agglutination in a dilution of 1:100; and which are moved interstate under a permit from the State of destination to be maintained in quarantine in such State until they are negative to another such test or until their death by slaughter or from natural causes;

(6) Bulls and female cattle of the beef type moved interstate, for feeding or grazing purposes only, to a State which has laws, rules, or regulations, which provide for the segregation or quarantine of such cattle brought into the State, and under a permit from such State of destination; and

(7) Cattle which have been subjected to a blood agglutination test, recognized by the Secretary of Agriculture for brucellosis, under the supervision of a Federal or State veterinary official, within 30 days prior to the date of movement interstate and found negative, and which are moved interstate under a permit from the State of destination to be maintained in quarantine in such State separate from other cattle until they are negative to another such test administered not less than 30 days after the date of the interstate movement or until their death by slaughter or from natural causes.

(c) Cattle of the following classes, not known to be affected with brucellosis, may be moved interstate under this subpart, except into the modified certified brucellosis-free areas specified in § 78.11, if accompanied by a certificate issued by a Federal or State inspector or an accredited veterinarian showing the identification tag number, tattoo, or registration number of each animal and showing the specific class in which the cattle fall:

(1) Cattle which have been subjected to a test, recognized by the Secretary of Agriculture for brucellosis, under the supervision of a Federal or State veterinary official, within 30 days prior to the date of movement interstate and found negative;

(2) Cattle which are official vaccinates over 30 months of age at the time of movement interstate; which have been subjected to a test, recognized by the Secretary of Agriculture for brucellosis, under the supervision of a Federal or State veterinary official, within 30 days prior to the interstate movement and found not to disclose a reaction exceeding incomplete agglutination in a dilution of 1:100; and

(3) Bulls and female cattle of the beef type moved interstate, for feeding or grazing purposes only, to a State which has laws, rules, or regulations, which provide for the segregation or quarantine of such cattle brought into the State.

(d) Cattle, not known to be affected with brucellosis, may be moved interstate under this subpart for immediate slaughter direct to a slaughtering establishment operating under the provisions of the Meat Inspection Act of March 4, 1907 (34 Stat. 1260; 21 U. S. C. 71 et seq.), or to a slaughtering establishment operating under State meat inspection, or to a slaughtering establishment designated by the proper State livestock sanitary official of the State of destination with approval of the Branch, if accompanied by a waybill or similar document, or a certificate signed by the owner or shipper of the cattle, stating: (1) The destination of the animals; (2) the purpose for which they are to be moved; (3) the number of animals covered by the waybill or similar document or certificate; (4) the point from which the animals are moved interstate; and (5) the address of such owner or shipper.

(e) Cattle, not known to be affected with brucellosis, may be moved interstate direct to a public stockyard without compliance with the foregoing provisions of this section, if accompanied by a waybill or similar document, or a certificate signed by the owner or shipper of the cattle, stating: (1) The destination of the animals; (2) the purposes for which they are to be moved; (3) the number of animals covered by the waybill or similar document or certificate; (4) the point from which the animals are moved interstate; and (5) the address of such owner or shipper: *Provided, however* That the movement of said cattle from such public stockyard to another destination must comply with the provisions of this part the same as if the cattle had been originally consigned direct from the point of origin to such destination.

(f) The Chief of the Animal Disease Eradication Branch, Agricultural Research Service, may authorize the movement, not otherwise authorized by this section, of cattle, not known to have reacted to a test for brucellosis, under such conditions as he may prescribe to prevent the spread of brucellosis.

Any person who wishes to submit written data, views, or arguments concerning the foregoing proposed amendments may do so by filing them with the Chief, Animal Disease Eradication Branch, Agricultural Research Service, United States Department of Agriculture, Washington, D. C., within 30 days after publication hereof in the FEDERAL REGISTER.

Done at Washington, D. C., this 4th day of October 1955.

[SEAL] M. R. CLARKSON,
Acting Administrator
Agricultural Research Service.

[F. R. Doc. 55-8153; Filed, Oct. 7, 1955; 8:46 a. m.]

[1] In each instance, the regulations of the State of destination should be consulted before interstate shipments are made.

DEPARTMENT OF COMMERCE

Federal Maritime Board

[46 CFR Ch. II]

[Docket No. 783]

PACIFIC COAST EUROPEAN TRADE; SECTION 19 INVESTIGATION

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given that pursuant to section 19, Merchant Marine Act, 1920 (46 U. S. C. 876) section 22, Shipping Act, 1916 (46 U. S. C. 821) and sections 204 and 214, Merchant Marine Act, 1936 (46 U. S. C. 1114 and 1124) the Federal Maritime Board has instituted an investigation and proposes the following rule:

(a) That every common carrier by water in the trade from ports of the Pacific Coast of the United States to ports of Great Britain, Northern Ireland, Irish Free State, Continental Europe, Baltic, and Scandinavian ports, and ports in the Mediterranean Sea, shall file with the Federal Maritime Board and keep open to public inspection schedules showing all the rates and charges for or in connection with the transportation of property in such trade, or any part thereof, except cargo loaded and carried in bulk without mark or count. The schedules filed as aforesaid by any such common carrier by water shall show the point from and to which each such rate or charge applies; and shall contain all the rules and regulations which in anywise change, affect, or determine any part of the aggregate of such aforesaid rates or charges.

(b) No change shall be made in any such rate or charge which has been filed and made public as required by this section except by the filing and publishing as aforesaid of a new schedule or schedules which shall become effective not earlier than the date of filing thereof with the Board, and such schedule or schedules shall plainly show the changes proposed to be made in the schedule or schedules then in force, and the time when the rates, fares, charges as changed are to become effective.

(c) Provided further, the Board upon good cause shown may exempt from the requirements of this section the rates and charges applicable to specific commodities.

(d) That every such common carrier file with the Federal Maritime Board a statement of the rate of brokerage paid by it wherever brokerage is paid by the said carrier in connection with the movement of cargo in the said trade. Thereafter, a memorandum of any change in or departure from such rate of brokerage shall be filed within thirty days from the date such change becomes effective or such departure takes place.

Any person having an interest in the proceeding and grounds for intervention within the meaning of the Board's Rules of Practice and Procedure, Rule 5 (n) (46 CFR 201.74), may intervene in the said proceeding of investigation by compliance with the said Rule, and notifying the Secretary, Federal Maritime Board, Washington 25, D. C., within fifteen (15) days from the date of publication hereof in the FEDERAL REGISTER, of an intention to do so.

By order of the Board.

Dated: October 6, 1955.

[SEAL] A. J. WILLIAMS,
Secretary.

[F. R. Doc. 55-8186; Filed, Oct. 6, 1955; 10:43 a. m.]

NOTICES

DEPARTMENT OF THE TREASURY

Bureau of Customs

[Customs Delegation Order No. 1; T. D. 53914]

DELEGATION OF AUTHORITY

CLARIFYING AMENDMENT

SEPTEMBER 30, 1955.

Pursuant to Treasury Department Order No. 165, Revised (T. D. 53654, 19 F R. 7241) Customs Delegation Order No. 1, (T. D. 53161, 17 F R. 11705) as revised by T. D. 53694 (19 F. R. 8756), is hereby amended, for the purpose of clarification, by adding a new paragraph 4, reading as follows:

4. The delegations made by this order to the Chiefs of Divisions of the Bureau relate to decisions to be made and functions to be performed at the headquarters office of the Bureau of Customs, and no such delegation to the Chief of a Division shall be interpreted as revoking or modifying any delegation made to customs field officers.

[SEAL] RALPH KELLY,
Commissioner of Customs.

[F. R. Doc. 55-8169; Filed, Oct. 7, 1955; 8:49 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

NEVADA

SMALL TRACT CLASSIFICATION ORDER NO. 110

OCTOBER 4, 1955.

Pursuant to authority delegated to me by Bureau Order No. 541, dated April 21, 1954 (19 F R. 2473) I hereby amend all Small Tract Classification Orders applying to public lands in Clark County, Nevada. Until further notice, applications on Form 4-776 for lands classified in Clark County, Nevada, under previous classification orders will not be accepted, will not be considered as filed, and if filed, will be returned to the applicant.

E. R. GREENSLET,
State Supervisor

[F. R. Doc. 55-8174; Filed, Oct. 7, 1955; 8:50 a. m.]

DEPARTMENT OF AGRICULTURE

Commodity Stabilization Service

PEANUTS

REDELEGATION OF FINAL AUTHORITY BY ARKANSAS STATE AGRICULTURAL STABILIZATION AND CONSERVATION COMMITTEE

Section 729.731 of the Marketing Quota Regulations for the 1956 Crop of Peanuts (20 F R. 6033) issued pursuant to the marketing quota provisions of the Agricultural Adjustment Act of 1938, as amended (7 U. S. C. 1301-1376) provides that any authority delegated to the State Agricultural Stabilization and Conservation Committee by the regulations may be redelegated by the State Committee. In accordance with section 3 (a) (1) of the Administrative Procedure Act (5 U. S. C. 1002 (a)), which requires delegations of final authority to be published in the FEDERAL REGISTER, there are set out herein the redelegations of final authority which have been made by the Arkansas State Agricultural Stabilization and Conservation Committee of authority vested in such committee by the Secretary of Agriculture in the regulations referred to above. Shown below are the sections of the regulations in which such authority appears and the person to whom the authority has been redelegated:

ARKANSAS

Sections 729.711 (a) (5), 729.717 (b) (5), 729.718, 729.720 (a), 729.722 (a), and 729.726 Administrative Officer or Acting Administrative Officer of the Office of the State ASC Committee.

(Sec. 375, 52 Stat. 66, as amended; 7 U. S. C. 1375. Interpret or apply secs. 301, 358, 359, 361-368, 372, 373, 374, 376, 388, 52 Stat. 38, 62, 63, 64, 65, 66, 68, as amended; 55 Stat. 88, as amended; 66 Stat. 27; 7 U. S. C. 1301, 1358, 1359, 1361-1368, 1372, 1373, 1374, 1376, 1388)

Issued at Washington, D. C., this 4th day of October 1955.

[SEAL] EARL M. HUGHES,
Administrator,
Commodity Stabilization Service.

[F. R. Doc. 55-8154; Filed, Oct. 7, 1955; 8:46 a. m.]

DEPARTMENT OF COMMERCE

Bureau of Foreign Commerce

ARBUCKLE, SMITH & CO., LTD.

ORDER TERMINATING TEMPORARY SUSPENSION ORDER

In the matter of: Arbuckle, Smith & Co., Ltd., Adelaide House, Lower Thames Street, London E. C. 3, England, Respondent.

An application having been made on behalf of Arbuckle, Smith & Co., Ltd., to

vacate and terminate the order temporarily denying to it export privileges, issued July 1, 1955 (20 F R. 4927, published July 9, 1955) and the evidence in support of said application having been referred to and considered by the Compliance Commissioner, who has recommended that the application be granted as hereinafter provided:

It is hereby ordered, That the order temporarily denying export privileges to Arbuckle, Smith & Co., Ltd. (20 F R. 4927, published July 9, 1955) be and the same hereby is vacated without prejudice to any future action or proceeding which may be taken herein upon a proper showing of reasons for such action.

Dated: October 5, 1955.

JOHN C. BORTON,
Director
Office of Export Supply.

[F. R. Doc. 55-8167; Filed, Oct. 7, 1955; 8:49 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 11308, 11438; FCC 55M-841]

UMATILLA BROADCASTING ENTERPRISES ET AL.

ORDER SETTING PRE-HEARING CONFERENCE

In re applications of John M. Carroll tr/as Umatilla Broadcasting Enterprises, Pendleton, Oregon, Docket No. 11308, File No. BP-9510; Robert R. Moore tr/as Othello Broadcasting Company, Othello, Washington, Docket No. 11438, File No. BP-9723; for construction permits.

The Hearing Examiner having under consideration a petition filed September 30, 1955, by Umatilla Broadcasting Enterprises, requesting that a pre-hearing conference in the above-entitled proceeding be held on October 14, 1955;

It appearing that the hearing in such proceeding is now scheduled to commence on November 14, 1955; that section 1.841 of the Commission's Rules requires the exchange of exhibits by the parties at least 20 days prior to the hearing date; and that a conference in accordance with section 1.813 of the Commission's rules is necessary in order to expedite the hearing by consideration, among other things, of the following matters:

(1) The necessity or desirability of simplification, clarification, amplification or limitation of the issues;

(2) Admissions of fact and of documents which will avoid unnecessary proof;

(3) The possibility of stipulating with respect to facts;

(4) Assumptions regarding the availability of equipment;

(5) Need, if any, for depositions;

(6) The numbering of exhibits;

(7) The order of offer of proof with relationship to docket number;

(8) The date for the exchange of exhibits between the applicants, as required by Section 1.841, *supra;* and

(9) Such other matters as will be conducive to an expeditious conduct of the hearing;

It further appearing that public interest requires an early consideration of such petition and good cause has been shown for the grant thereof;

It is ordered, This 4th day of October 1955, that the petition be and it is hereby granted; and that a pre-hearing conference for the purposes hereinabove described be held in the above-entitled proceeding at the offices of this Commission, at 10:00 a. m., on Friday, October 14, 1955, and the parties are ordered and directed to appear, either in person or by counsel, at such conference prepared to discuss the matters enumerated above.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 55-8182; Filed, Oct. 7, 1955; 8:50 a. m.]

[Docket Nos. 11474, 11475; FCC 55 M-838]

NORTHERN INDIANA BROADCASTERS, INC., ET AL

ORDER CONTINUING HEARING

In re applications of Northern Indiana Broadcasters, Incorporated, South Bend, Indiana, Docket No. 11474, File No. BP-9602; St. Joseph Valley Broadcasting Corporation (WJVA), Mishawaka, Indiana, Docket No. 11475, File No. BP-9778; for construction permits.

The Hearing Examiner having under consideration a motion filed September 29, 1955, by St. Joseph Valley Broadcasting Corporation (WJVA) requesting a continuance of the pre-hearing conference scheduled for September 30, 1955, as well as the hearing scheduled to begin on October 12, 1955; and

It appearing that St. Joseph Valley Broadcasting Corporation (WJVA) has been engaged in negotiations which, if consummated, may result in their withdrawal from this proceeding, a fact which would render a comparative hearing unnecessary; and

It appearing that counsel for all the parties have consented to the requested continuance, and for immediate consideration of the motion and good cause for continuance having been shown;

It is ordered, This the 29th day of September 1955, that the motion for the continuance of the pre-hearing conference and of the hearing be and the same is hereby granted; the pre-hearing conference and the start of the hearing are continued to a date which will be designated later by the Hearing Examiner.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 55-8183; Filed, Oct. 7, 1955; 8:50 a. m.]

[Amdt. 0-12]

STATEMENT OF ORGANIZATION, DELEGATIONS OF AUTHORITY AND OTHER INFORMATION

MISCELLANEOUS AMENDMENTS

The Commission having under consideration the desirability of making certain editorial changes in section 0.49 of its Statement of Organization, Delegations of Authority and Other Information; and

It appearing that the amendments adopted herein are editorial in nature, and, therefore, prior publication of Notice of Proposed Rule Making under the provisions of section 4 of the Administrative Procedure Act is unnecessary, and the amendments may become effective immediately; and

It further appearing that the amendments adopted herein are issued pursuant to authority contained in sections 4 (i), 5 (d) (1) and 303 (r) of the Communications Act of 1934, as amended, and paragraph 0.341 of the Commission's Statement of Organization, Delegations of Authority and Other Information.

It is ordered, This 5th day of October 1955, that, effective immediately, section 0.49 of the Commission's Statement of Organization, Delegations of Authority and Other Information is amended as set forth below.

Released: October 5, 1955.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

1. In section 0.49 (a) change the heading of the last column in the table to read "Counties" and change the addresses of the following Radio District Offices:

Radio District and New Address

5 (Delete "Ship Office: Room 200, U. S. Post Office Bldg., Newport News, Va." listed under Radio District No. 5.)

6 718 Atlanta National Bldg., 50 Whitehall St. SW., Atlanta 3, Ga. Sub-Office: P. O. Box 77, 214 Post Office Bldg., Savannah, Ga.

8 603 Federal Bldg., 600 South St., New Orleans 12, La. Sub-Office: 419 U. S. Courthouse and Customhouse, Mobile 10, Ala.

9 (Note: Main office address unchanged—change Sub-Office address to read as follows:) Sub-Office: P. O. Box 1527 (323 Post Office Bldg., 300 Willow St.), Beaumont, Tex.

10 P. O. Box 5238, 500 U. S. Terminal Annex Bldg., (Houston and Jackson Sts.), Dallas 22, Tex.

12 323-A Customhouse (555 Battery St.), San Francisco 26, Calif.

14 802 Federal Office Bldg., (First Ave. and Marion), Seattle 4, Wash.

16 521 New Customhouse (19th between California and Stout Sts.), Denver 2, Colo.

17 3100 Federal Office Bldg., 911 Walnut St., Kansas City 6, Mo.

18 826 U. S. Courthouse, 219 South Clark St., Chicago 4, Ill.

23 (Note: Main office address unchanged—change Sub-Office address to read as follows:) Sub-Office: P. O. Box 1421, 5 Shattuck Bldg., Juneau, Alaska.

24 Briggs Bldg., 22d and E Sts. NW., Washington 25, D. C.

2. In section 0.49 (b) change the address of Regional Office No. 2 to read as follows:

Region No. 2, 718 Atlanta National Bldg., 50 Whitehall St. SW., Atlanta 3, Ga.—To include: District Nos. 6, 7, 8, 9, 10, and 22.

3. In section 0.49 (c) change the address of the Powder Springs, Ga., Pri-

mary Monitoring Station to read as follows:

Federal Communications Commission, P. O. Box 4, Powder Springs, Ga.

[F. R. Doc. 55-8184; Filed, Oct. 7, 1955; 8:50 a.. m.]

FEDERAL POWER COMMISSION

[Docket No. G-3175]

PHILLIPS PETROLEUM CO.

ORDER PERMITTING SUBSTITUTION OF REVISED RATE SCHEDULE AND SUSPENDING PROPOSED RATES AND CHARGES IN SUBSTITUTED RATE SCHEDULE

Phillips Petroleum Company (Applicant) on August 31, 1955, tendered for filing a contract, designated as Applicant's FPC Gas Rate Schedule No. 262, in substitution and in lieu of Applicant's FPC Gas Rate Schedule No. 26, including Supplements 1 through 11 thereto, and in lieu of Applicant's FPC Gas Rate Schedule No. 28 and Supplements 1 through 4 thereto, all pertaining to sales and deliveries of gas by Applicant to Northern Natural Gas Company.

Applicant's FPC Gas Rate Schedule No. 262 consists of a new contract to supersede Applicant's FPC Gas Rate Schedules Nos. 26 and 28 and effective October 1, 1955, which is the expiration date proposed in the present contracts. Applicant's FPC Gas Rate Schedule No. 262 makes no change in service but changes the rate only to the extent of making the proposed tax escalation clause applicable to all gas sold. Applicant's FPC Gas Rate Schedule No. 28 contains a tax escalation clause, whereas Applicant's FPC Gas Rate Schedule No. 26 does not contain a tax escalation clause. Applicant's FPC Gas Rate Schedule No. 262 effects an increase on that portion of gas presently sold under Applicant's FPC Gas Rate Schedule No. 26.

Applicant has requested permission of the Commission to substitute its FPC Gas Rate Schedule No. 262 in the foregoing designated docket for the previously filed Rate Schedules Nos. 26 and 28 pertaining to this same service and be made effective on October 1, 1955. The increased rates and charges proposed in the aforesaid filing of Applicant's FPC Gas Rate Schedule No. 262 have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

This proceeding, which was instituted pursuant to Sections 4 and 15 of the Natural Gas Act for the purpose of determining the lawfulness of the increased rates and charges proposed by Applicant, has not been concluded, nor decision rendered therein.

The Commission finds:

(1) Good cause exists to permit the substitution of Applicant's FPC Gas Rate Schedule No. 262 filed on August 31, 1955, in lieu of Applicant's FPC Gas Rate Schedule No. 26, including Supplements 1 through 11 thereto, and in lieu of Applicant's FPC Gas Rate Schedule No. 28 and Supplements 1 through 4 thereto.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the proposed changes as provided in Applicant's FPC Gas Rate Schedule No. 262 in this proceeding, and that Applicant's FPC Gas Rate Schedule No. 262 be suspended and the use thereof deferred as hereinafter ordered.

(3) It is appropriate and necessary in carrying out the provisions of the Natural Gas Act to require Applicant, as a condition to its making effective rates under suspension, to file an undertaking.

The Commission orders:

(A) Applicant's FPC Gas Rate Schedule No. 262 filed on August 31, 1955, be and it is hereby substituted in lieu of Applicant's FPC Gas Rate Schedule No. 26, including Supplements 1 through 11 thereto, and in lieu of Applicant's FPC Gas Rate Schedule No. 28 and Supplements 1 through 4 thereto.

(B) Pursuant to the authority contained in Sections 4 and 15 of the Natural Gas Act and the Commission's General Rules and Regulations (18 CFR, Chapter I) a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of said proposed changes in rates and charges in Applicant's FPC Gas Rate Schedule No. 262; and, pending such hearing and decision thereon, the above-designated rate schedules and supplements be and the same hereby are suspended and the use thereof deferred until October 2, 1955, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Interested State commissions may participate as provided by sections 1.8 and 1.37 (f) of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.37 (f))

Adopted: September 28, 1955.

Issued: October 3, 1955.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 55-8148; Filed, Oct. 7, 1955; 8:45 a. m.]

[Docket No. E-6645]

SOUTHEASTERN POWER ADMINISTRATION

NOTICE OF REQUEST FOR APPROVAL OF RATES AND CHARGES FOR SALE OF POWER BY SOUTHEASTERN POWER ADMINISTRATION

OCTOBER 3, 1955.

In the matter of United States Department of the Interior, Southeastern Power Administration, Center Hill, Dale Hollow, and Wolf Creek Projects.

Notice is hereby given that the United States Department of the Interior on behalf of the Southeastern Power Administration (SEPA) has filed with the Federal Power Commission a contract dated December 18, 1948, as amended by a supplemental agreement dated July 26, 1955, together with supporting data, covering the sale by SEPA to the Tennessee Valley Authority (TVA) of power and energy generated at the Center Hill, Dale Hollow, and Wolf Creek projects in the Cumberland River Basin in Kentucky and Tennessee. Confirmation and approval of the rates and charges contained therein is requested for a period of five years pursuant to the Flood Control Act of 1944 (58 Stat. 887) The subject contract as amended provides, in summary, as follows:

The total power and energy generated at the above Cumberland River Basin projects, less power and energy required by the United States Army Corps of Engineers in connection with operation of the projects, shall be delivered at the project sites to TVA. The projects will be operated in accordance with a separate operating agreement between TVA and the Army.

As compensation for the power and energy delivered to it, TVA shall make a basic annual payment of $3,950,000, subject to adjustment for variations in the average unregulated flow of water into Wolf Creek reservoir for each year ending June 30. The annual payment shall be increased $560,000 for each 750 cubic feet per second or fraction thereof by which such flow exceeds 9,250 cubic feet per second, or decreased $560,000 for each 500 cubic feet per second or fraction thereof by which such flow is less than 8,500 cubic feet per second; provided, that the adjusted annual payment shall not be less than $1,710,000, nor more than $6,190,000.

Payments shall be made in monthly installments of $150,000 during the months from July through December of each year, and in accordance with computed amounts, based upon estimated average stream flow as provided in the agreement, during the months from January through June. In the event that the sum of the monthly installments at the end of the fiscal year exceeds the applicable annual charge, the excess shall be credited against installments due the following fiscal year.

Anyone desiring to make representation with respect to the foregoing should submit the same on or before October 25, 1955, to the Federal Power Commission, Washington 25, D. C. The proposed rates and charges are on file with the Commission for public inspection.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 55-8149; Filed, Oct. 7, 1955; 8:46 a. m.]

[Docket No. G-3908, etc.]

LIVEZEY GAS CORP. ET AL.

NOTICE OF APPLICATIONS AND DATE OF HEARING

OCTOBER 3, 1955.

In the matters of Livezey Gas Corporation, Docket No. G-3908; Oil Participations, Inc., Docket Nos. G-4363 and G-4364; Doham Gas Company, Docket No. G-4883; Brady Gas Company, Docket No. G-6011, Fez Gas Company, Docket No. G-6012; Sweetland Land and Mineral Company· Docket Nos. G-6013, G-6015, G-6017· Delhi Oil Company, Docket No. G-6306; Delta Gulf Drilling Company, Docket Nos. G-6331, G-6332, G-6333, and G-6334.

Take notice that there have been filed with the Federal Power Commission applications for certificates of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, authorizing the respective Applicants to render service as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the respective applications, which are on file with the Commission and open for public inspection.

The above-named Applicants produce and sell natural gas for transportation in interstate commerce for resale, as indicated below:

Docket No.	Location of field	Purchaser
G-3908	West Sinton and South Sinton Fields, San Patricio County, Tex.	Tennessee Gas Transmission Co.
G-4363	Corpus Channel Field, Nueces County, Tex.	Do.
G-4364	Spartan Field, San Patricio County, Tex.	Do.
G-4883	McClelland District, Doddridge County, W. Va.	Manufacturers Light & Heat Co.
G-6011	Laurel Hill District, Lincoln County, W. Va.	United Fuel Gas Co.
G-6012	Fez Creek Field, Lincoln County, W. Va.	Do.
G-6013	Mud River Field, Lincoln County, W. Va.	Do.
G-6015	Harts Creek District, Lincoln County, W. Va.	Do.
G-6017	Laurel Hill District, Lincoln County, W. Va.	Do.
G-6306	North Magnolia City Field, Jim Wells County, Tex.	Tennessee Gas Transmission Co.
G-6331	Carthage Field, Panola County, Tex.	Texas Gas Transmission Corp.
G-6332	Driftwood Field, Elk and Cameron Counties, Pa.	Sylvania Corp.
G-6333	Driftwood Field, Cameron County, Pa.	Manufacturers Light & Heat Co.
G-6334	Wharton Field, Porter County, Pa.	United Natural Gas Co.

These related matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's Rules of Practice and Procedure, a hearing will be held on November 9, 1955, at 9:30 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such applications: *Provided, however* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of section 1.30 (c) (1) or (c) (2) of the Commission's Rules of Practice and Procedure.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the Rules of Practice and Procedure (18 CFR 1.8 or 1.10) on or before October 20, 1955. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-8150; Filed, Oct. 7, 1955; 8:46 a. m.]

[Docket No. G-8616 etc.]

SENECA DEVELOPMENT CO. ET AL.

NOTICE OF ORDERS MAKING EFFECTIVE PROPOSED RATE CHANGES

OCTOBER 4, 1955.

In the matters of Seneca Development Company, Docket No. G-8616; Hassie Hunt Trust, Docket No. G-8618; H. L. Hunt, Docket No. G-8620.

Notice is hereby given that on September 30, 1955, the Federal Power Commission issued its orders adopted September 28, 1955, making effective proposed rate changes upon filing of undertaking to assure refund of excess charges in the above-entitled matters.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-8159; Filed, Oct. 7, 1955; 8:47 a. m.]

[Docket No. G-8617, etc.]

KATHLEEN O'BOYLE TRUST NO. 2 ET AL.

NOTICE OF ORDERS MAKING EFFECTIVE PROPOSED RATE CHANGES

OCTOBER 4, 1955.

In the matters of Kathleen O'Boyle Trust No. 2, Docket No. G-8617; Hunt Oil Company, Docket No. G-8619; Continental Oil Company, Docket No. G-8696.

Notice is hereby given that on September 29, 1955, the Federal Power Commission issued its orders adopted September 28, 1955, making effective proposed rate changes upon filing of undertaking to assure refund of excess charges in the above-entitled matters.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-8160; Filed, Oct. 7, 1955; 8:47 a. m.]

[Docket No. G-8697, etc.]

STANOLIND OIL AND GAS CO. ET AL.

NOTICE OF ORDER AFFIRMING RULING

OCTOBER 4, 1955.

In the matters of Stanolind Oil and Gas Company, Docket No. G-8697; Continental Oil Company, Docket No. G-8696; Mississippi River Fuel Corporation, Docket No. G-9097.

Notice is hereby given that on September 28, 1955, the Federal Power Commission issued its order adopted September 28, 1955, affirming ruling of Presiding Examiner in the above-entitled matters.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-8161; Filed, Oct. 7, 1955; 8:47 a. m.]

[Docket No. G-8839 etc.]

NATURAL GAS PIPELINE CO. OF AMERICA ET AL.

NOTICE OF APPLICATIONS AND DATE OF HEARING

OCTOBER 4, 1955.

In the matters of Natural Gas Pipeline Company of America, Docket No. G-8839; Texas Company, Docket No. G-8820; Phillips Petroleum Company, Docket No. G-8876.

Natural Gas Pipeline Company of America, and hereinafter referred to as Natural, a Delaware corporation with its principal place of business at 20 North Wacker Drive, Chicago 6, Illinois, filed, on May 2, 1955, its application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act authorizing to construct and operate gas facilities as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open for public inspection.

(1) To construct and operate a sidetap connection to Natural's main transmission line system in the Southwest corner of Beaver County, Oklahoma.

(a) In addition to (1) above, Natural is to construct a gathering system in Texas and Beaver Counties, Oklahoma, consisting of 2.07 miles of 4-inch, 4.69 miles of 6-inch, and 5.05 miles of 8-inch pipelines.

(b) To construct wellhead meters and alcohol injection equipment.

(2) To construct and operate a sidetap connection in Hansford County, Texas, on Natural's Sinclair-Lips gas field lateral line approximately one mile southeast of the point of connection of the Sinclair-Lips line with Natural's main transmission system.

(a) In addition to (2) above, Natural is to construct gathering facilities consisting of approximately 0.9 mile of 4-inch pipeline.

(b) One wellhead meter and alcohol injection equipment.

The purpose of the above project is to enable Natural to take deliveries, into its main transmission system, of additional supplies of gas under new purchase contracts with Texas Company, United Producing Company, Inc., Rip C. Underwood, Cities Service Gas Development Company (formerly American Gas Production Company), and Phillips Petroleum Company.

The Texas Company and Phillips Petroleum Company (hereinafter referred to as Texas and Phillips respectively), are Delaware corporations with their principal places of business located at Houston, Texas, and Bartlesville, Oklahoma, respectively. Texas

filed its application on April 28, 1955, and Phillips filed on May 9, 1955, both filings were for certificates of public convenience and necessity pursuant to section 7 (c) of the Natural Gas Act, authorizing Texas and Phillips to render service as hereinafter described, subject to the jurisdiction of the Commission all as more fully represented in their respective application which are on file with the Commission and open for public inspection.

Texas and Phillips propose to produce natural gas from the Cambrick field, Texas County, Oklahoma, and the Blakemore area, Hansford County, Texas, which will be sold to Natural for transportation in interstate commerce for resale.

These related matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's Rules of Practice and Procedure, a hearing will be held on November 3, at 9:30 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such applications: *Provided, however* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of section 1.30 (c) (1) or (c) (2) of the Commission's Rules of Practice and Procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the Rules of Practice and Procedure (18 CFR 1.8 or 1.10) on or before October 22, 1955. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 55-8162; Filed, Oct. 7, 1955; 8:47 a. m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

OCTOBER 5, 1955.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 31157: *Commodities between points in Texas.* Filed by J. F Brown, Agent, for interested rail carriers. Rates on oleomargarine, packing house products, dressed beef, pork and mutton, carloads between points in Texas over interstate routes.

Grounds for relief: Intrastate competition and circuity.

Tariff: Supplement 5 to Agent Brown's I. C. C. 865.

FSA No. 31159: *Lime to Boutte, La.* Filed by F C. Kratzmeir, Agent, for interested rail carriers. Rates on lime, carloads from various interstate origins to Boutte, La.

Grounds for relief: Short-line distance formula, grouping and circuity.

Tariff: Supplement 20 to Agent Kratzmeir's I. C. C. 4021.

FSA No. 31160: *Fertilizer and materials—Florida to Official Territory.* Filed by R. E. Boyle, Jr., Agent, for interested rail carriers. Rates on fertilizer and fertilizer materials, carloads from Apalachicola and Franklin, Fla., to specified points in official territory.

Grounds for relief: Short-line distance formula and circuity.

Tariff: Supplement 55 to Agent Spaninger's I. C. C. 1366.

FSA No. 31161. *Slag—Sheffield, Ala., to Illinois Points.* Filed by R. E. Boyle, Jr., Agent, for interested rail carriers. Rates on slag, expanded or water granulated, carloads from Sheffield, Ala., to Benton, Harrisburg, and Sesser, Ill.

Grounds for relief: Circuitous routes.

Tariff: Supplement 26 to Agent Spaninger's I. C. C. 1469.

FSA No. 31162: *Asphalt filler—Chatsworth, Ga., to Rutherford, N. J.* Filed by R. E. Boyle, Jr., Agent, for interested rail carriers. Rates on asphalt filler, carloads from Chatsworth, Ga., to Rutherford, N. J.

Grounds for relief: Short-line distance formula and circuity.

Tariff: Supplement 144 to Agent Spaninger's I. C. C. 1324.

FSA No. 31163: *Hides—Meridian, Miss., to Philadelphia, Pa.* Filed by R. E. Boyd, Jr., Agent, for interested rail carriers. Rates on hides, pelts or skins, carloads from Meridian, Miss., to Philadelphia, Pa.

Grounds for relief: Short-line distance formula and circuity.

Tariff: Supplement 144 to Agent Spaninger's I. C. C. 1324.

FSA No. 31164. *Hides—Center Hill, Fla., to Eastern Points.* Filed by R. E. Boyle, Jr., Agent, for interested rail carriers. Rates on hides, pelts or skins, carloads from Center Hill, Fla., to Peabody, Mass., and South Paris, Maine.

Grounds for relief: Short-line distance formula and circuity.

Tariff: Supplement 144 to Agent Spaninger's I. C. C. 1324.

FSA No. 31165: *Hides—Greenwood, S. C., to Endicott, N. Y* Filed by R. E. Boyle, Jr., for interested rail carriers. Rates on hides, pelts or skins, carloads from Greenwood, S. C., to Endicott, N. Y.

Grounds for relief: Short-line distance formula and circuity.

Tariff: Supplement 144 to Agent Spaninger's I. C. C. 1324.

FSA No. 31166: *Acetone—Holston and Kingsport, Tenn., to Houston, Tex.* Filed by F C. Kratzmeir, Agent, for interested rail carriers. Rates on acetone, noibn, tank-car loads from Holston and Kingsport, Tenn., to Houston, Tex.

Grounds for relief: Circuitous routes.

Tariff: Supplement 88 to Agent Kratzmeir's I. C. C. 4115.

FSA No. 31167: *Superphosphate to Forest City, Iowa.* Filed by R. E. Boyle, Jr., Agent, for interested rail carriers. Rates on superphosphate (acid phosphate), other than ammoniated or defluorinated, carloads from specified points in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee to Forest City, Iowa.

Grounds for relief: Short line distance formula and circuity.

Tariff: Supplement 21 to Agent Spaninger's I. C. C. 1433.

AGGREGATE OF INTERMEDIATES

FSA No. 31168: *Commodities between points in Texas.* Filed by J. F Brown, Agent, for interested rail carriers. Rates on oleomargarine, packing house products, dressed beef, pork, and mutton, and anhydrous ammonia, carloads between points in Texas over interstate routes.

Grounds for relief: Maintenance of rates proposed between points in Texas not applicable as factors in constructing combination rates lower than through one-factor rates from or to points beyond Texas.

Tariff: Supplement 5 to Agent Brown's I. C. C. 865.

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F. R. Doc. 55-8155; Filed, Oct. 7, 1955; 8:46 a. m.]

[Rev. S. O. 562, Taylor's I. C. C. Order 59]

INDIANA HARBOR BELT RAILROAD CO.

REROUTING OR DIVERSION OF TRAFFIC

In the opinion of Charles W Taylor, Agent, the Indiana Harbor Belt Railroad Company, because of work stoppage, is unable to transport traffic routed over and to points on its lines.

It is ordered, That:

(a) Rerouting traffic: The Indiana Harbor Belt Railroad Company, and its connections, is hereby authorized to divert or reroute such traffic over any available route to expedite the movement, regardless of routing shown on the waybill. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) Concurrence of receiving roads to be obtained: The railroads desiring to divert or reroute traffic under this order shall confer with the proper transportation officer of the railroad or railroads to which such traffic is to be diverted or rerouted, and shall receive the concurrence of such other railroads before the rerouting or diversion is ordered.

(c) Notification to shippers: The carriers rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic by said Agent is deemed to be due to carrier's disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipments on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic; divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) Effective date: This order shall become effective at 12:01 p. m., September 30, 1955.

(g) Expiration date: This order shall expire at 11:59 p. m., October 31, 1955, unless otherwise modified, changed, suspended or annulled.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., September 30, 1955.

INTERSTATE COMMERCE COMMISSION,
CHARLES W TAYLOR,
Agent.

[F. R. Doc. 55-8156; Filed, Oct. 7, 1955; 8:46 a. m.]

UNITED STATES TARIFF COMMISSION

[Investigation 44]

TOWELING, OF FLAX, HEMP, OR RAMIE

NOTICE OF INVESTIGATION

Investigation instituted. Upon application of the Stevens Linen Associates, Inc., Dudley, Massachusetts, received August 29, 1955, the United States Tariff Commission, on the 4th day of October, 1955, under the authority of section 7 of the Trade Agreements Extension Act of 1951, as amended, and section 332 of the Tariff Act of 1930, instituted an investigation to determine whether toweling, of flax, hemp, or ramie, or of which these substances or any of them is the component material of chief value, classifiable under paragraph 1010 of the Tariff Act of 1930, is, as a result in whole or in part of the duty or other customs treatment reflecting the concessions granted thereon under the General Agreement on Tariffs and Trade, being imported into the United States in such increased quantities, either actual or relative, as to cause or threaten serious injury to the domestic industry producing like or directly competitive products.

Inspection of application. The application filed in this case is available for public inspection at the office of the Secretary, United States Tariff Commission, 8th and E Streets, NW., Washington, D. C., and in the New York office of the Tariff Commission, located in Room 437 of the Custom House, where it may be read and copied by persons interested.

I certify that the above investigation was instituted by the Tariff Commission on the 4th day of October 1955.

Issued: October 5, 1955.

[SEAL] DONN N. BENT,
Secretary.

[F. R. Doc. 55-8158; Filed, Oct. 7, 1955; 8:47 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 812-958]

STATE BOND AND MORTGAGE CO.

NOTICE OF FILING OF APPLICATION REGARDING THRIFT PLAN FOR EMPLOYEES

OCTOBER 3, 1955.

Notice is hereby given that State Bond and Mortgage Company (the "Company") a registered investment company, has filed an application pursuant to Rule N-17D-1 of the rules and regulations promulgated under the Investment Company Act of 1940 ("Act") for an order under the rule granting such application in respect of a Thrift Plan for Employees.

The application describes the operation of the Plan in summary as follows:

The Plan is to be voluntary as to those persons in the employ of the company at the time of its adoption and compulsory as to persons becoming employees thereafter.

The allocation of the Company contribution among the various members will vary in direct proportion to the amount of their voluntary contribution, which contribution may be either 1 percent, 2 percent, 3 percent, 4 percent, or 5 percent of the employees' annual compensation. The Company contribution for each fiscal year of the Plan is to be the smallest of the following sums: (1) 50 percent of member contributions during the year; (2) 5 percent of annual net profit of the company or (3) the excess of net profit over 15 percent of capital funds as of the beginning of the year. No stock of the Company may be held in the Plan. The Plan will be administered by a Trustee.

Company contributions will vest in the employee upon termination of employment (other than by retirement or death) only to the following extent depending upon years of employment:

	Percent
Less than five	0
Five to eight	25
Eight to ten	50
Ten or more	100

The Plan also provides that there shall be no vesting in case of discharge for proven fraud or dishonesty. Any forfeitures will vest in the other members of the Plan and will not inure to the benefit of the Company.

The Plan has been formally approved by the Board of Directors, but will not be submitted to security holders of the Company. It will be put into operation retroactively for the current fiscal year of the Company upon its clearance and approval by the Internal Revenue Service and by the Securities and Exchange Commission.

Rule N-17D-1 provides, among other things, that it shall be unlawful, with certain exceptions not applicable here, for an affiliated person of a registered investment or of any company controlled by any such registered investment company to participate in, or effect any transaction in connection with any bonus, profit-sharing or pension plan in which any such registered investment company or controlled company is a participant unless an application regarding such plan has been granted by the Commission, prior to the adoption thereof if not submitted to stockholders for approval.

Since affiliated persons of the Company would be eligible to participate, the Thrift Plan is subject to the provisions of Rule N-17D-1.

Notice is further given that any interested person may, not later than October 14, 1955, at 5:30 p. m., submit to the Commission in writing any facts bearing upon the desirability of a hearing on the matter and may request that a hearing be held, such request stating the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D. C. At any time after said date, the application may be granted as provided in Rule N-5 of the Rules and Regulations promulgated under the Act.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 55-8151; Filed, Oct. 7, 1955; 8:49 a. m.]

[File No. 70-3412]

AMERICAN NATURAL GAS CO. AND MICHIGAN CONSOLIDATED GAS CO.

ORDER REGARDING ISSUANCE OF COMMON STOCK BY PUBLIC UTILITY COMPANY AND ACQUISITION THEREOF BY PARENT COMPANY

OCTOBER 4, 1955.

American Natural Gas Company ("American Natural") a registered holding company, and Michigan Consolidated Gas Company ("Michigan Consolidated"), a gas utility subsidiary company of American Natural, having filed with this Commission an application-declaration, and an amendment thereto, pursuant to sections 6 (a) (2) 6 (b) 7 (e) 9, 10, and 12 (f) of the Public Utility Holding Company Act of 1935 ("Act") and Rule U-43 promulgated thereunder regarding certain proposed transactions which are summarized as follows:

Michigan Consolidated proposes to issue and sell to American Natural, and American Natural proposes to buy from Michigan Consolidated, 930,000 shares of Michigan Consolidated common stock, par value $14 per share, for a cash consideration of $13,020,000, which is equal to the aggregate par value thereof. American Natural proposes to pay such purchase price out of the proceeds obtained from its recent offering of common stock. Michigan Consolidated will use the net proceeds from the sale of Michigan Consolidated common stock for the payment of construction costs and to reimburse its treasury for funds so used.

Michigan Consolidated further proposes to amend its Articles of Incorporation so as to increase its authorized shares of common stock from 4,500,000 shares (of which 4,475,000 shares are presently outstanding) to 5,500,000 shares.

The transactions proposed to be consummated by Michigan Consolidated have been expressly authorized by the Michigan Public Service Commission, the State commission of the State in which Michigan Consolidated is organized and doing business. The application-declaration states that no other commission, other than the Securities and Exchange Commission, has jurisdiction over any of the proposed transactions.

Fees and expenses in connection with the foregoing transactions are estimated as follows:

Federal original issue tax	$14,322
Michigan Public Service Commission fee	13,020
Michigan Corporation and Securities Commission fee	7,000
Counsel fees:	
Sidley, Austin, Burgess & Smith	750
Dyer, Meek, Ruegsegger & Bullard	750
American Natural Gas Service Company, services at cost	500
Miscellaneous telephone, telegraph, duplicating, traveling and other expenses and contingency fund	658
Total	37,000

Notice of the filing of the application-declaration having been duly given in the manner prescribed by Rule U-23, and no hearing having been ordered by or requested of, the Commission; and the Commission finding that the applicable provisions of the Act and the Rules thereunder are satisfied; that the fees and expenses set forth above are not unreasonable; and that the application-declaration, as amended, should be granted and permitted to become effective forthwith:

It is ordered, Pursuant to Rule U-23 and the applicable provisions of the Act, that said application-declaration, as amended, be and the same hereby is granted and permitted to become effective forthwith, subject to the terms and conditions contained in Rule U-24.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 55-8152; Filed, Oct. 7, 1955; 8:46 a. m.]